



Rep. Linda Chapa LaVia

**Filed: 4/17/2006**

09400SB0017ham003

LRB094 05351 BDD 58378 a

1 AMENDMENT TO SENATE BILL 17

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 17, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "ARTICLE 5.

6 SOUTHERN ILLINOIS ECONOMIC DEVELOPMENT AUTHORITY ACT

7 Section 5-5. Short title. This Article may be cited as the  
8 Southern Illinois Economic Development Authority Act, and  
9 references in this Article to "this Act" mean this Article.

10 Section 5-10. Findings. The General Assembly determines  
11 and declares the following:

12 (1) that labor surplus areas currently exist in southern  
13 Illinois;

14 (2) that the economic burdens resulting from involuntary  
15 unemployment fall, in part, upon the State in the form of  
16 increased need for public assistance and reduced tax revenues  
17 and, in the event that the unemployed worker and his or her  
18 family migrate elsewhere to find work, the burden may also fall  
19 upon the municipalities and other taxing districts within the  
20 areas of unemployment in the form of reduced tax revenues,  
21 thereby endangering their financial ability to support  
22 necessary governmental services for their remaining  
23 inhabitants;

1 (3) that the State has a responsibility to help create a  
2 favorable climate for new and improved job opportunities for  
3 its citizens by encouraging the development of commercial and  
4 service businesses and industrial and manufacturing plants  
5 within the southern region of Illinois;

6 (4) that a lack of decent housing contributes to urban  
7 blight, crime, anti-social behavior, disease, a higher need for  
8 public assistance, reduced tax revenues, and the migration of  
9 workers and their families away from areas which fail to offer  
10 adequate, decent, and affordable housing;

11 (5) that decent, affordable housing is a necessary  
12 ingredient of life affording each citizen basic human dignity,  
13 a sense of self-worth, confidence, and a firm foundation upon  
14 which to build a family and educate children;

15 (6) that in order to foster civic and neighborhood pride,  
16 citizens require access to educational institutions,  
17 recreation, parks and open spaces, entertainment, sports, a  
18 reliable transportation network, cultural facilities, and  
19 theaters; and

20 (7) that the main purpose of this Act is to promote  
21 industrial, commercial, residential, service, transportation,  
22 and recreational activities and facilities, thereby reducing  
23 the evils attendant upon unemployment and enhancing the public  
24 health, safety, morals, happiness, and general welfare of the  
25 State.

26 Section 5-15. Definitions. In this Act:

27 "Authority" means the Southern Illinois Economic  
28 Development Authority.

29 "Governmental agency" means any federal, State, or local  
30 governmental body and any agency or instrumentality thereof,  
31 corporate or otherwise.

32 "Person" means any natural person, firm, partnership,  
33 corporation, both domestic and foreign, company, association

1 or joint stock association and includes any trustee, receiver,  
2 assignee or personal representative thereof.

3 "Revenue bond" means any bond issued by the Authority, the  
4 principal and interest of which is payable solely from revenues  
5 or income derived from any project or activity of the  
6 Authority.

7 "Board" means the Board of Directors of the Southern  
8 Illinois Economic Development Authority.

9 "Governor" means the Governor of the State of Illinois.

10 "City" means any city, village, incorporated town, or  
11 township within the geographical territory of the Authority.

12 "Industrial project" means the following:

13 (1) a capital project, including one or more buildings and  
14 other structures, improvements, machinery and equipment  
15 whether or not on the same site or sites now existing or  
16 hereafter acquired, suitable for use by any manufacturing,  
17 industrial, research, transportation or commercial enterprise  
18 including but not limited to use as a factory, mill, processing  
19 plant, assembly plant, packaging plant, fabricating plant,  
20 ethanol plant, office building, industrial distribution  
21 center, warehouse, repair, overhaul or service facility,  
22 freight terminal, research facility, test facility, railroad  
23 facility, port facility, solid waste and wastewater treatment  
24 and disposal sites and other pollution control facilities,  
25 resource or waste reduction, recovery, treatment and disposal  
26 facilities, and including also the sites thereof and other  
27 rights in land therefore whether improved or unimproved, site  
28 preparation and landscaping and all appurtenances and  
29 facilities incidental thereto such as utilities, access roads,  
30 railroad sidings, truck docking and similar facilities,  
31 parking facilities, dockage, wharfage, railroad roadbed,  
32 track, trestle, depot, terminal, switching and signaling  
33 equipment or related equipment and other improvements  
34 necessary or convenient thereto; or

1           (2) any land, buildings, machinery or equipment comprising  
2 an addition to or renovation, rehabilitation or improvement of  
3 any existing capital project.

4           "Commercial project" means any project, including, but not  
5 limited to, one or more buildings and other structures,  
6 improvements, machinery, and equipment, whether or not on the  
7 same site or sites now existing or hereafter acquired, suitable  
8 for use by any retail or wholesale concern, distributorship, or  
9 agency.

10          "Project" means an industrial, housing, residential,  
11 commercial, or service project, or any combination thereof,  
12 provided that all uses fall within one of the categories  
13 described above. Any project automatically includes all site  
14 improvements and new construction involving sidewalks, sewers,  
15 solid waste and wastewater treatment and disposal sites and  
16 other pollution control facilities, resource or waste  
17 reduction, recovery, treatment and disposal facilities, parks,  
18 open spaces, wildlife sanctuaries, streets, highways, and  
19 runways.

20          "Lease agreement" means an agreement in which a project  
21 acquired by the Authority by purchase, gift, or lease is leased  
22 to any person or corporation that will use, or cause the  
23 project to be used, as a project, upon terms providing for  
24 lease rental payments at least sufficient to pay, when due, all  
25 principal of and interest and premium, if any, on any bonds,  
26 notes, or other evidences of indebtedness of the Authority,  
27 issued with respect to the project, providing for the  
28 maintenance, insurance, and operation of the project on terms  
29 satisfactory to the Authority and providing for disposition of  
30 the project upon termination of the lease term, including  
31 purchase options or abandonment of the premises, with other  
32 terms as may be deemed desirable by the Authority.

33          "Loan agreement" means any agreement in which the Authority  
34 agrees to loan the proceeds of its bonds, notes, or other

1 evidences of indebtedness, issued with respect to a project, to  
2 any person or corporation which will use or cause the project  
3 to be used as a project, upon terms providing for loan  
4 repayment installments at least sufficient to pay, when due,  
5 all principal of and interest and premium, if any, on any  
6 bonds, notes, or other evidences of indebtedness of the  
7 Authority issued with respect to the project, providing for  
8 maintenance, insurance, and operation of the project on terms  
9 satisfactory to the Authority and providing for other terms  
10 deemed advisable by the Authority.

11 "Financial aid" means the expenditure of Authority funds or  
12 funds provided by the Authority for the development,  
13 construction, acquisition or improvement of a project, through  
14 the issuance of revenue bonds, notes, or other evidences of  
15 indebtedness.

16 "Costs incurred in connection with the development,  
17 construction, acquisition or improvement of a project" means  
18 the following:

19 (1) the cost of purchase and construction of all lands and  
20 improvements in connection therewith and equipment and other  
21 property, rights, easements, and franchises acquired which are  
22 deemed necessary for the construction;

23 (2) financing charges;

24 (3) interest costs with respect to bonds, notes, and other  
25 evidences of indebtedness of the Authority prior to and during  
26 construction and for a period of 6 months thereafter;

27 (4) engineering and legal expenses; and

28 (5) the costs of plans, specifications, surveys, and  
29 estimates of costs and other expenses necessary or incident to  
30 determining the feasibility or practicability of any project,  
31 together with such other expenses as may be necessary or  
32 incident to the financing, insuring, acquisition, and  
33 construction of a specific project and the placing of the same  
34 in operation.

1 Section 5-20. Creation.

2 (a) There is created a political subdivision, body politic,  
3 and municipal corporation named the Southern Illinois Economic  
4 Development Authority. The territorial jurisdiction of the  
5 Authority is that geographic area within the boundaries of the  
6 following counties: Franklin, Perry, Randolph, Jackson,  
7 Williamson, Saline, Gallatin, Union, Johnson, Pope, Hardin,  
8 Alexander, Pulaski, and Massac and any navigable waters and air  
9 space located therein.

10 (b) The governing and administrative powers of the  
11 Authority shall be vested in a body consisting of 21 members as  
12 follows:

13 (1) Ex officio member. The Director of Commerce and  
14 Economic Opportunity, or a designee of that Department,  
15 shall serve as an ex officio member.

16 (2) Public members. Six members shall be appointed by  
17 the Governor with the advice and consent of the Senate. The  
18 county board chairmen of the following counties shall each  
19 appoint one member: Franklin, Perry, Randolph, Jackson,  
20 Williamson, Saline, Gallatin, Union, Johnson, Pope,  
21 Hardin, Alexander, Pulaski, and Massac. All public members  
22 shall reside within the territorial jurisdiction of the  
23 Authority. The public members shall be persons of  
24 recognized ability and experience in one or more of the  
25 following areas: economic development, finance, banking,  
26 industrial development, state or local government,  
27 commercial agriculture, small business management, real  
28 estate development, community development, venture  
29 finance, organized labor, or civic or community  
30 organization.

31 (c) 11 members shall constitute a quorum.

32 (d) The chairman of the Authority shall be elected annually  
33 by the Board and must be a public member that resides within

1 the territorial jurisdiction of the Authority.

2 (e) The terms of all initial members of the Authority shall  
3 begin 30 days after the effective date of this Act. Of the 6  
4 original public members appointed by the Governor, 2 shall  
5 serve until the third Monday in January, 2007; 1 shall serve  
6 until the third Monday in January, 2008; 1 shall serve until  
7 the third Monday in January, 2009; 1 shall serve until the  
8 third Monday in January, 2010; and 1 shall serve until the  
9 third Monday in January, 2011. The initial terms of the  
10 original public members appointed by the county board chairmen  
11 shall be determined by lot, according to the following  
12 schedule: (i) 3 shall serve until the third Monday in January,  
13 2007, (ii) 3 shall serve until the third Monday in January,  
14 2008, (iii) 3 shall serve until the third Monday in January,  
15 2009, (iv) 3 shall serve until the third Monday in January,  
16 2010, and (v) 2 shall serve until the third Monday in January,  
17 2011. All successors to these original public members shall be  
18 appointed by the original appointing authority and all  
19 appointments made by the Governor shall be made with the advice  
20 and consent of the Senate, pursuant to subsection (b), and  
21 shall hold office for a term of 6 years commencing the third  
22 Monday in January of the year in which their term commences,  
23 except in the case of an appointment to fill a vacancy.  
24 Vacancies occurring among the public members shall be filled  
25 for the remainder of the term. In case of vacancy in a  
26 Governor-appointed membership when the Senate is not in  
27 session, the Governor may make a temporary appointment until  
28 the next meeting of the Senate when a person shall be nominated  
29 to fill the office and, upon confirmation by the Senate, he or  
30 she shall hold office during the remainder of the term and  
31 until a successor is appointed and qualified. Members of the  
32 Authority are not entitled to compensation for their services  
33 as members but are entitled to reimbursement for all necessary  
34 expenses incurred in connection with the performance of their

1 duties as members.

2 (f) The Governor may remove any public member of the  
3 Authority in case of incompetence, neglect of duty, or  
4 malfeasance in office. The chairman of a county board may  
5 remove any public member appointed by that chairman in the case  
6 of incompetence, neglect of duty, or malfeasance in office.

7 (g) The Board shall appoint an Executive Director who shall  
8 have a background in finance, including familiarity with the  
9 legal and procedural requirements of issuing bonds, real  
10 estate, or economic development and administration. The  
11 Executive Director shall hold office at the discretion of the  
12 Board. The Executive Director shall be the chief administrative  
13 and operational officer of the Authority, shall direct and  
14 supervise its administrative affairs and general management,  
15 perform such other duties as may be prescribed from time to  
16 time by the members, and receive compensation fixed by the  
17 Authority. The Department of Commerce and Community Affairs  
18 shall pay the compensation of the Executive Director from  
19 appropriations received for that purpose. The Executive  
20 Director shall attend all meetings of the Authority. However,  
21 no action of the Authority shall be invalid on account of the  
22 absence of the Executive Director from a meeting. The Authority  
23 may engage the services of the Illinois Finance Authority,  
24 attorneys, appraisers, engineers, accountants, credit  
25 analysts, and other consultants if the Southern Illinois  
26 Economic Development Authority deems it advisable.

27 Section 5-25. Duty. All official acts of the Authority  
28 shall require the approval of at least 11 members. It shall be  
29 the duty of the Authority to promote development within the  
30 geographic confines of Franklin, Perry, Randolph, Jackson,  
31 Williamson, Saline, Gallatin, Union, Johnson, Pope, Hardin,  
32 Alexander, Pulaski, and Massac counties. The Authority shall  
33 use the powers conferred upon it to assist in the development,



1 construction, and acquisition of industrial, commercial,  
2 housing, or residential projects within those counties.

3 Section 5-30. Powers.

4 (a) The Authority possesses all the powers of a body  
5 corporate necessary and convenient to accomplish the purposes  
6 of this Act, including, without any intended limitation upon  
7 the general powers hereby conferred, the following powers:

8 (1) to enter into loans, contracts, agreements, and  
9 mortgages in any matter connected with any of its corporate  
10 purposes and to invest its funds;

11 (2) to sue and be sued;

12 (3) to utilize services of the Illinois Finance  
13 Authority necessary to carry out its purposes;

14 (4) to have and use a common seal and to alter the seal  
15 at its discretion;

16 (5) to adopt all needful ordinances, resolutions,  
17 bylaws, rules, and regulations for the conduct of its  
18 business and affairs and for the management and use of the  
19 projects developed, constructed, acquired, and improved in  
20 furtherance of its purposes;

21 (6) to designate the fiscal year for the Authority;

22 (7) to accept and expend appropriations;

23 (8) to acquire, own, lease, sell, or otherwise dispose  
24 of interests in and to real property and improvements  
25 situated on that real property and in personal property  
26 necessary to fulfill the purposes of the Authority;

27 (9) to engage in any activity or operation which is  
28 incidental to and in furtherance of efficient operation to  
29 accomplish the Authority's primary purpose;

30 (10) to acquire, own, construct, lease, operate, and  
31 maintain bridges, terminals, terminal facilities, and port  
32 facilities and to fix and collect just, reasonable, and  
33 nondiscriminatory charges for the use of such facilities.

1       These charges shall be used to defray the reasonable  
2       expenses of the Authority and to pay the principal and  
3       interest of any revenue bonds issued by the Authority;

4           (11) subject to any applicable condition imposed by  
5       this Act, to locate, establish and maintain a public  
6       airport, public airports and public airport facilities  
7       within its corporate limits or within or upon any body of  
8       water adjacent thereto and to construct, develop, expand,  
9       extend and improve any such airport or airport facility;  
10      and

11           (12) to have and exercise all powers and be subject to  
12      all duties usually incident to boards of directors of  
13      corporations.

14      (b) The Authority shall not issue any bonds relating to the  
15      financing of a project located within the planning and  
16      subdivision control jurisdiction of any municipality or county  
17      unless: (i) notice, including a description of the proposed  
18      project and the financing for that project, is submitted to the  
19      corporate authorities of the municipality or, in the case of a  
20      proposed project in an unincorporated area, to the county board  
21      and (ii) the corporate authorities of the municipality do not,  
22      or the county board does not, adopt a resolution disapproving  
23      the project within 45 days after receipt of the notice.

24      (c) If any of the powers set forth in this Act are  
25      exercised within the jurisdictional limits of any  
26      municipality, all ordinances of the municipality remain in full  
27      force and effect and are controlling.

28      Section 5-35. Tax avoidance. Notwithstanding any other  
29      provision of law, the Authority shall not enter into any  
30      agreement providing for the purchase and lease of tangible  
31      personal property which results in the avoidance of taxation  
32      under the Retailers' Occupation Tax Act, the Use Tax Act, the  
33      Service Use Tax Act, or the Service Occupation Tax Act, without

1 the prior written consent of the Governor.

2 Section 5-40. Bonds.

3 (a) The Authority, with the written approval of the  
4 Governor, shall have the continuing power to issue bonds,  
5 notes, or other evidences of indebtedness in an aggregate  
6 amount not to exceed \$250,000,000 for the following purposes:  
7 (i) development, construction, acquisition, or improvement of  
8 projects, including those established by business entities  
9 locating or expanding property within the territorial  
10 jurisdiction of the Authority; (ii) entering into venture  
11 capital agreements with businesses locating or expanding  
12 within the territorial jurisdiction of the Authority; and (iii)  
13 acquisition and improvement of any property necessary and  
14 useful in connection therewith. For the purpose of evidencing  
15 the obligations of the Authority to repay any money borrowed,  
16 the Authority may, pursuant to resolution, from time to time,  
17 issue and dispose of its interest-bearing revenue bonds, notes,  
18 or other evidences of indebtedness and may also from time to  
19 time issue and dispose of such bonds, notes, or other evidences  
20 of indebtedness to refund, at maturity, at a redemption date or  
21 in advance of either, any bonds, notes, or other evidences of  
22 indebtedness pursuant to redemption provisions or at any time  
23 before maturity. All such bonds, notes, or other evidences of  
24 indebtedness shall be payable solely and only from the revenues  
25 or income to be derived from loans made with respect to  
26 projects, from the leasing or sale of the projects, or from any  
27 other funds available to the Authority for such purposes. The  
28 bonds, notes, or other evidences of indebtedness may bear such  
29 date or dates, may mature at such time or times not exceeding  
30 40 years from their respective dates, may bear interest at such  
31 rate or rates not exceeding the maximum rate permitted by the  
32 Bond Authorization Act, may be in such form, may carry such  
33 registration privileges, may be executed in such manner, may be

1 payable at such place or places, may be made subject to  
2 redemption in such manner and upon such terms, with or without  
3 premium, as is stated on the face thereof, may be authenticated  
4 in such manner and may contain such terms and covenants as may  
5 be provided by an applicable resolution.

6 (b) The holder or holders of any bonds, notes, or other  
7 evidences of indebtedness issued by the Authority may bring  
8 suits at law or proceedings in equity to compel the performance  
9 and observance by any corporation or person or by the Authority  
10 or any of its agents or employees of any contract or covenant  
11 made with the holders of the bonds, notes, or other evidences  
12 of indebtedness, to compel such corporation, person, the  
13 Authority, and any of its agents or employees to perform any  
14 duties required to be performed for the benefit of the holders  
15 of the bonds, notes, or other evidences of indebtedness by the  
16 provision of the resolution authorizing their issuance and to  
17 enjoin the corporation, person, the Authority, and any of its  
18 agents or employees from taking any action in conflict with any  
19 contract or covenant.

20 (c) If the Authority fails to pay the principal of or  
21 interest on any of the bonds or premium, if any, as the bond  
22 becomes due, a civil action to compel payment may be instituted  
23 in the appropriate circuit court by the holder or holders of  
24 the bonds on which the default of payment exists or by an  
25 indenture trustee acting on behalf of the holders. Delivery of  
26 a summons and a copy of the complaint to the chairman of the  
27 Board shall constitute sufficient service to give the circuit  
28 court jurisdiction over the subject matter of the suit and  
29 jurisdiction over the Authority and its officers named as  
30 defendants for the purpose of compelling such payment. Any  
31 case, controversy, or cause of action concerning the validity  
32 of this Act relates to the revenue of the State of Illinois.

33 (d) Notwithstanding the form and tenor of any bond, note,  
34 or other evidence of indebtedness and in the absence of any

1 express recital on its face that it is non-negotiable, all such  
2 bonds, notes, and other evidences of indebtedness shall be  
3 negotiable instruments. Pending the preparation and execution  
4 of any bonds, notes, or other evidences of indebtedness,  
5 temporary bonds, notes, or evidences of indebtedness may be  
6 issued as provided by ordinance.

7 (e) To secure the payment of any or all of such bonds,  
8 notes, or other evidences of indebtedness, the revenues to be  
9 received by the Authority from a lease agreement or loan  
10 agreement shall be pledged, and, for the purpose of setting  
11 forth the covenants and undertakings of the Authority in  
12 connection with the issuance of the bonds, notes, or other  
13 evidences of indebtedness and the issuance of any additional  
14 bonds, notes or other evidences of indebtedness payable from  
15 such revenues, income, or other funds to be derived from  
16 projects, the Authority may execute and deliver a mortgage or  
17 trust agreement. A remedy for any breach or default of the  
18 terms of any mortgage or trust agreement by the Authority may  
19 be by mandamus proceeding in the appropriate circuit court to  
20 compel performance and compliance under the terms of the  
21 mortgage or trust agreement, but the trust agreement may  
22 prescribe by whom or on whose behalf the action may be  
23 instituted.

24 (f) Bonds or notes shall be secured as provided in the  
25 authorizing ordinance which may include, notwithstanding any  
26 other provision of this Act, in addition to any other security,  
27 a specific pledge, assignment of and lien on, or security  
28 interest in any or all revenues or money of the Authority, from  
29 whatever source, which may, by law, be used for debt service  
30 purposes and a specific pledge, or assignment of and lien on,  
31 or security interest in any funds or accounts established or  
32 provided for by ordinance of the Authority authorizing the  
33 issuance of the bonds or notes.

34 (g) The State of Illinois pledges to and agrees with the

1 holders of the bonds and notes of the Authority issued pursuant  
2 to this Section that the State will not limit or alter the  
3 rights and powers vested in the Authority by this Act so as to  
4 impair the terms of any contract made by the Authority with the  
5 holders of bonds or notes or in any way impair the rights and  
6 remedies of those holders until the bonds and notes, together  
7 with interest thereon, with interest on any unpaid installments  
8 of interest, and all costs and expenses in connection with any  
9 action or proceedings by or on behalf of the holders, are fully  
10 met and discharged. In addition, the State pledges to and  
11 agrees with the holders of the bonds and notes of the Authority  
12 issued pursuant to this Section that the State will not limit  
13 or alter the basis on which State funds are to be paid to the  
14 Authority as provided in this Act, or the use of such funds, so  
15 as to impair the terms of any such contract. The Authority is  
16 authorized to include these pledges and agreements of the State  
17 in any contract with the holders of bonds or notes issued  
18 pursuant to this Section.

19 (h) Not less than 30 days prior to the commitment to issue  
20 bonds, notes, or other evidences of indebtedness for the  
21 purpose of developing, constructing, acquiring, or improving  
22 housing or residential projects, as defined in this Act, the  
23 Authority shall provide notice to the Executive Director of the  
24 Illinois Housing Development Authority. Within 30 days after  
25 the notice is provided, the Illinois Housing Development  
26 Authority shall, in writing, either express interest in  
27 financing the project or notify the Authority that it is not  
28 interested in providing financing and that the Authority may  
29 finance the project or seek alternative financing.

30 Section 5-45. Bonds and notes; exemption from taxation. The  
31 creation of the Authority is in all respects for the benefit of  
32 the people of Illinois and for the improvement of their health,  
33 safety, welfare, comfort, and security, and its purposes are

1 public purposes. In consideration thereof, the notes and bonds  
2 of the Authority issued pursuant to this Act and the income  
3 from these notes and bonds may be free from all taxation by the  
4 State or its political subdivisions, exempt for estate,  
5 transfer, and inheritance taxes. The exemption from taxation  
6 provided by the preceding sentence shall apply to the income on  
7 any notes or bonds of the Authority only if the Authority in  
8 its sole judgment determines that the exemption enhances the  
9 marketability of the bonds or notes or reduces the interest  
10 rates that would otherwise be borne by the bonds or notes. For  
11 purposes of Section 250 of the Illinois Income Tax Act, the  
12 exemption of the Authority shall terminate after all of the  
13 bonds have been paid. The amount of such income that shall be  
14 added and then subtracted on the Illinois income tax return of  
15 a taxpayer, subject to Section 203 of the Illinois Income Tax  
16 Act, from federal adjusted gross income or federal taxable  
17 income in computing Illinois base income shall be the interest  
18 net of any bond premium amortization.

19 Section 5-50. Acquisition.

20 (a) The Authority may, but need not, acquire title to any  
21 project with respect to which it exercises its authority.

22 (b) The Authority shall have power to acquire by purchase,  
23 lease, gift, or otherwise any property or rights therein from  
24 any person or persons, the State of Illinois, any municipal  
25 corporation, any local unit of government, the government of  
26 the United States and any agency or instrumentality of the  
27 United States, any body politic, or any county useful for its  
28 purposes, whether improved for the purposes of any prospective  
29 project or unimproved. The Authority may also accept any  
30 donation of funds for its purposes from any of these sources.

31 (c) The Authority shall have power to develop, construct,  
32 and improve, either under its own direction or through  
33 collaboration with any approved applicant, or to acquire,

1 through purchase or otherwise, any project, using for this  
2 purpose the proceeds derived from its sale of revenue bonds,  
3 notes, or other evidences of indebtedness or governmental loans  
4 or grants and shall have the power to hold title to those  
5 projects in the name of the Authority.

6 (d) The Authority shall have the power to enter into  
7 intergovernmental agreements with the State of Illinois, the  
8 counties of Franklin, Perry, Randolph, Jackson, Williamson,  
9 Saline, Gallatin, Union, Johnson, Pope, Hardin, Alexander,  
10 Pulaski, or Massac, the Illinois Finance Authority, the  
11 Illinois Housing Development Authority, the United States  
12 government and any agency or instrumentality of the United  
13 States, any unit of local government located within the  
14 territory of the Authority, or any other unit of government to  
15 the extent allowed by Article VII, Section 10 of the Illinois  
16 Constitution and the Intergovernmental Cooperation Act.

17 (e) The Authority shall have the power to share employees  
18 with other units of government, including agencies of the  
19 United States, agencies of the State of Illinois, and agencies  
20 or personnel of any unit of local government.

21 (f) The Authority shall have the power to exercise powers  
22 and issue bonds as if it were a municipality so authorized in  
23 Divisions 12.1, 74, 74.1, 74.3, and 74.5 of Article 11 of the  
24 Illinois Municipal Code.

25 Section 5-60. Designation of depository. The Authority  
26 shall biennially designate a national or State bank or banks as  
27 depositories of its money. Such depositories shall be  
28 designated only within the State and upon condition that bonds  
29 approved as to form and surety by the Authority and at least  
30 equal in amount to the maximum sum expected to be on deposit at  
31 any one time shall be first given by such depositories to the  
32 Authority, such bonds to be conditioned for the safe keeping  
33 and prompt repayment of such deposits. When any of the funds of



1 the Authority shall be deposited by the treasurer in any such  
2 depository, the treasurer and the sureties on his official bond  
3 shall, to such extent, be exempt from liability for the loss of  
4 any such deposited funds by reason of the failure, bankruptcy,  
5 or any other act or default of such depository; provided that  
6 the Authority may accept assignments of collateral by any  
7 depository of its funds to secure such deposits to the same  
8 extent and conditioned in the same manner as assignments of  
9 collateral are permitted by law to secure deposits of the funds  
10 of any city.

11 Section 5-65. Taxation prohibited. The Authority shall  
12 have no right or authority to levy any tax or special  
13 assessment, to pledge the credit of the State or any other  
14 subdivision or municipal corporation thereof, or to incur any  
15 obligation enforceable upon any property, either within or  
16 without the territory of the Authority.

17 Section 5-70. Fees. The Authority may collect fees and  
18 charges in connection with its loans, commitments, and  
19 servicing and may provide technical assistance in the  
20 development of the region.

21 Section 5-75. Reports. The Authority shall annually submit  
22 a report of its finances to the Auditor General. The Authority  
23 shall annually submit a report of its activities to the  
24 Governor and to the General Assembly.

25 ARTICLE 10.

26 RIVER EDGE REDEVELOPMENT ZONE ACT

27 Section 10-1. This Article may be cited as the River Edge  
28 Redevelopment Zone Act, and references in this Article to "this  
29 Act" mean this Article.

1           Section 10-2. Findings. The General Assembly finds and  
2 declares that those municipalities adjacent to or surrounding  
3 river areas often lack critical tools to safely revive and  
4 redevelop environmentally-challenged properties that will  
5 stimulate economic revitalization and create jobs in Illinois.  
6 Environmentally-challenged properties adjacent to or  
7 surrounding Illinois rivers are a threat to the health, safety,  
8 and welfare of the people of this State. Many of these  
9 environmentally-challenged properties adjacent to or  
10 surrounding rivers were former industrial areas that now,  
11 subject to appropriate environmental clean-up and remediation,  
12 would be ideal for office, residential, retail, hospitality,  
13 commercial, recreational, warehouse and distribution, and  
14 other economically productive uses. The cost of the cleaning  
15 and remediation of these environmentally-challenged properties  
16 is often the primary obstacle to returning these properties to  
17 a safe and economically productive use.

18           Cooperative and continuous partnership among the State,  
19 through the Department of Commerce and Economic Opportunity and  
20 the Environmental Protection Agency, municipalities adjacent  
21 to or surrounding rivers, and the private sector is necessary  
22 to appropriately encourage the cost-effective cleaning and  
23 remediation of these environmentally-challenged properties in  
24 order to bring about a safe and economically productive use of  
25 the properties.

26           Therefore, it is declared to be the purpose of this Act to  
27 identify and initiate 2 pilot River Edge Redevelopment Zones to  
28 stimulate the safe and cost-effective re-use of  
29 environmentally-challenged properties adjacent to or  
30 surrounding rivers by means of tax incentives or grants.

31           Section 10-3. Definitions. As used in this Act:

32           "Department" means the Department of Commerce and Economic

1 Opportunity.

2 "River Edge Redevelopment Zone" means an area of the State  
3 certified by the Department as a River Edge Redevelopment Zone  
4 pursuant to this Act.

5 "Designated zone organization" means an association or  
6 entity: (1) the members of which are substantially all  
7 residents of the River Edge Redevelopment Zone or of the  
8 municipality in which the River Edge Redevelopment Zone is  
9 located; (2) the board of directors of which is elected by the  
10 members of the organization; (3) that satisfies the criteria  
11 set forth in Section 501(c) (3) or 501(c) (4) of the Internal  
12 Revenue Code; and (4) that exists primarily for the purpose of  
13 performing within the zone, for the benefit of the residents  
14 and businesses thereof, any of the functions set forth in  
15 Section 8 of this Act.

16 "Agency" means: each officer, board, commission, and  
17 agency created by the Constitution, in the executive branch of  
18 State government, other than the State Board of Elections; each  
19 officer, department, board, commission, agency, institution,  
20 authority, university, and body politic and corporate of the  
21 State; each administrative unit or corporate outgrowth of the  
22 State government that is created by or pursuant to statute,  
23 other than units of local government and their officers, school  
24 districts, and boards of election commissioners; and each  
25 administrative unit or corporate outgrowth of the above and as  
26 may be created by executive order of the Governor. No entity is  
27 an "agency" for the purposes of this Act unless the entity is  
28 authorized by law to make rules or regulations.

29 "Rule" means each agency statement of general  
30 applicability that implements, applies, interprets, or  
31 prescribes law or policy, but does not include (i) statements  
32 concerning only the internal management of an agency and not  
33 affecting private rights or procedures available to persons or  
34 entities outside the agency, (ii) intra agency memoranda, or

1 (iii) the prescription of standardized forms.

2 Section 10-4. Qualifications for River Edge Redevelopment  
3 Zones. An area is qualified to become a zone if it:

4 (1) is a contiguous area adjacent to or surrounding a  
5 river;

6 (2) comprises a minimum of one half square mile and not  
7 more than 12 square miles, exclusive of lakes and  
8 waterways;

9 (3) satisfies any additional criteria established by  
10 the Department consistent with the purposes of this Act;

11 (4) is entirely within a single home rule municipality;  
12 and

13 (5) has at least 100 acres of environmentally  
14 challenged land within 1500 yards of the riverfront.

15 Section 10-5. Initiation of River Edge Redevelopment Zones  
16 by Municipality.

17 (a) No area may be designated as a river edge redevelopment  
18 zone except pursuant to an initiating ordinance adopted in  
19 accordance with this Section.

20 (b) A municipality may by ordinance designate an area  
21 within its jurisdiction as a river edge redevelopment zone,  
22 subject to the certification of the Department in accordance  
23 with this Act, if:

24 (i) the area is qualified in accordance with Section  
25 10-4; and

26 (ii) the municipality has conducted at least one public  
27 hearing within the proposed zone area on the question of  
28 whether to create the zone, what local plans, tax  
29 incentives and other programs should be established in  
30 connection with the zone, and what the boundaries of the  
31 zone should be; public notice of such hearing shall be  
32 published in at least one newspaper of general circulation

1 within the zone area, not more than 20 days nor less than 5  
2 days before the hearing.

3 (c) An ordinance designating an area as a river edge  
4 redevelopment zone shall set forth:

5 (i) a precise description of the area comprising the  
6 zone, either in the form of a legal description or by  
7 reference to roadways, lakes and waterways, and  
8 municipality boundaries;

9 (ii) a finding that the zone area meets the  
10 qualifications of Section 10-4;

11 (iii) provisions for any tax incentives or  
12 reimbursement for taxes, which pursuant to State and  
13 federal law apply to business enterprises within the zone  
14 at the election of the designating municipality, and which  
15 are not applicable throughout the municipality;

16 (iv) a designation of the area as a river edge  
17 redevelopment zone, subject to the approval of the  
18 Department in accordance with this Act; and

19 (v) the duration or term of the river edge  
20 redevelopment zone.

21 (d) This Section does not prohibit a municipality from  
22 extending additional tax incentives or reimbursement for  
23 business enterprises in river edge redevelopment zones or  
24 throughout their territory by separate ordinance.

25 Section 10-5.1. Application to Department. A municipality  
26 that has adopted an ordinance designating an area as a river  
27 edge redevelopment zone shall make written application to the  
28 Department to have the proposed zone certified. The application  
29 shall include:

30 (1) a certified copy of the ordinance designating the  
31 proposed zone;

32 (2) a map of the proposed zone;

33 (3) an analysis, and any appropriate supporting

1 documents, demonstrating that the proposed zone area is  
2 qualified in accordance with Section 10-4;

3 (4) a statement detailing any tax, grant, and other  
4 financial incentives or benefits, and any programs, to be  
5 provided by the municipality to business enterprises or  
6 organizations within the zone, other than those provided in  
7 the designating ordinance, which are not to be provided  
8 throughout the municipality;

9 (5) a statement setting forth the economic development  
10 and planning objectives for the zone;

11 (6) an estimate of the economic impact of the zone,  
12 considering all of the tax incentives, financial benefits  
13 and programs contemplated, upon the revenues of the  
14 municipality;

15 (7) a transcript of all public hearings on the zone;

16 (8) a statement describing the functions, programs,  
17 and services to be performed by designated zone  
18 organizations within the zone; and

19 (9) such additional information as the Department by  
20 rule may require.

21 Section 10-5.2. Department Review of River Edge  
22 Redevelopment Zone Applications.

23 (a) All applications must be considered and acted upon by  
24 the Department no later than 180 days after being received by  
25 the Department.

26 (b) Upon receipt of an application from a municipality the  
27 Department shall review the application to determine whether  
28 the designated area qualifies as a River Edge Redevelopment  
29 Zone under Section 10-4 of this Act.

30 (c) If any such designated area is found to be qualified to  
31 be a River Edge Redevelopment Zone, the Department shall  
32 publish a notice in at least one newspaper of general  
33 circulation within the municipality in which the proposed zone

1 is located to notify the general public of the application and  
2 their opportunity to comment. Such notice shall include a  
3 description of the area and a brief summary of the application  
4 and shall indicate locations where the applicant has provided  
5 copies of the application for public inspection. The notice  
6 shall also indicate appropriate procedures for the filing of  
7 written comments from zone residents, business, civic, and  
8 other organizations and property owners to the Department.

9 (d) Within 180 days after receiving an application, the  
10 Department shall either approve or deny that application. If an  
11 approval of an application is not received within 180 days  
12 after the Department's receipt of the application, then the  
13 application is considered to be denied. If an application is  
14 denied, the Department shall inform the municipality of the  
15 specific reasons for the denial.

16 (e) In determining which designated areas shall be approved  
17 and certified as River Edge Redevelopment Zones, the Department  
18 shall give preference to:

19 (1) areas with high levels of environmentally  
20 challenged areas;

21 (2) areas that have evidenced the widest support from  
22 the municipality seeking to have such areas designated as  
23 River Edge Redevelopment Zones;

24 (3) areas for which a specific plan has been submitted  
25 to effect economic growth and expansion;

26 (4) areas for which there is evidence of prior  
27 consultation between the municipality seeking designation  
28 of an area as an River Edge Redevelopment Zone and  
29 business, labor, and neighborhood organizations within the  
30 proposed Zone;

31 (5) areas for which a specific plan has been submitted  
32 which will or may be expected to benefit zone residents and  
33 workers by increasing their ownership opportunities and  
34 participation in a River Edge Redevelopment Zone

1 development.

2 (f) The Department's determination of whether to certify a  
3 River Edge Redevelopment Zone shall be based on the purposes of  
4 this Act, the criteria set forth in Section 10-4 and subsection  
5 (e) of this Section, and any additional criteria adopted by  
6 regulation of the Department under paragraph (d) of Section  
7 10-4.

8 Section 10-5.3. Certification of River Edge Redevelopment  
9 Zones.

10 (a) Approval of designated River Edge Redevelopment Zones  
11 shall be made by the Department by certification of the  
12 designating ordinance. The Department shall promptly issue a  
13 certificate for each zone upon its approval. The certificate  
14 shall be signed by the Director of the Department, shall make  
15 specific reference to the designating ordinance, which shall be  
16 attached thereto, and shall be filed in the office of the  
17 Secretary of State. A certified copy of the River Edge  
18 Redevelopment Zone Certificate, or a duplicate original  
19 thereof, shall be recorded in the office of the recorder of  
20 deeds of the county in which the River Edge Redevelopment Zone  
21 lies.

22 (b) A River Edge Redevelopment Zone shall be effective upon  
23 its certification. The Department shall transmit a copy of the  
24 certification to the Department of Revenue, and to the  
25 designating municipality. Upon certification of a River Edge  
26 Redevelopment Zone, the terms and provisions of the designating  
27 ordinance shall be in effect, and may not be amended or  
28 repealed except in accordance with Section 10-5.4.

29 (c) A River Edge Redevelopment Zone shall be in effect for  
30 the period stated in the certificate, which shall in no event  
31 exceed 30 calendar years. Zones shall terminate at midnight of  
32 December 31 of the final calendar year of the certified term,  
33 except as provided in Section 10-5.4.



1 (d) In calendar years 2006 and 2007, the Department may  
2 certify one pilot River Edge Redevelopment Zone in the City of  
3 East St. Louis and one pilot River Edge Redevelopment Zone in  
4 the City of Aurora.

5 Thereafter the Department may not certify any additional  
6 River Edge Redevelopment Zones, but may amend and rescind  
7 certifications of existing River Edge Redevelopment Zones in  
8 accordance with Section 10-5.4.

9 (e) A municipality in which a River Edge Redevelopment Zone  
10 has been certified must submit to the Department, within 60  
11 days after the certification, a plan for encouraging the  
12 participation by minority persons, females, persons with  
13 disabilities, and veterans in the zone. The Department may  
14 assist the municipality in developing and implementing the  
15 plan. The terms "minority person", "female", and "person with a  
16 disability" have the meanings set forth under Section 2 of the  
17 Business Enterprise for Minorities, Females, and Persons with  
18 Disabilities Act. "Veteran" means an Illinois resident who is a  
19 veteran as defined in subsection (h) of Section 1491 of Title  
20 10 of the United States Code.

21 Section 10-5.4. Amendment and decertification of River  
22 Edge Redevelopment Zones.

23 (a) The terms of a certified zone designating ordinance may  
24 be amended to:

25 (1) alter the boundaries of the Zone;

26 (2) expand, limit or repeal tax incentives or benefits  
27 provided in the ordinance;

28 (3) alter the termination date of the zone; or

29 (4) make technical corrections in the river edge  
30 redevelopment zone designating ordinance.

31 An amendment shall not be effective unless the Department  
32 issues an amended certificate for the River Edge Redevelopment  
33 Zone, approving the amended designating ordinance. Upon the

1 adoption of any ordinance amending or repealing the terms of a  
2 certified river edge redevelopment zone designating ordinance,  
3 the municipality shall promptly file with the Department an  
4 application for approval thereof, containing substantially the  
5 same information as required for an application under Section  
6 10-5.1 insofar as material to the proposed changes. The  
7 municipality must hold a public hearing on the proposed changes  
8 as specified in Section 10-5 and, if the amendment is to  
9 effectuate the limitation of tax abatements under Section  
10 10-5.4.1, then the public notice of the hearing shall state  
11 that property that is in both the zone and a redevelopment  
12 project area may not receive tax abatements unless within 60  
13 days after the adoption of the amendment to the designating  
14 ordinance the municipality has determined that eligibility for  
15 tax abatements has been established.

16 (b) The Department shall approve or disapprove a proposed  
17 amendment to a certified zone within 90 days after its receipt  
18 of the application from the municipality. The Department may  
19 not approve changes in a Zone that are not in conformity with  
20 this Act, as now or hereafter amended, or with other applicable  
21 laws. If the Department issues an amended certificate for a  
22 Zone, the amended certificate, together with the amended zone  
23 designating ordinance, shall be filed, recorded, and  
24 transmitted as provided in Section 10-5.3.

25 (c) A River Edge Redevelopment Zone may be decertified by  
26 joint action of the Department and by the municipality in which  
27 the River Edge Development Zone is located. The designating  
28 municipality shall conduct at least one public hearing within  
29 the zone prior to its adoption of an ordinance of  
30 decertification. The mayor of the designating municipality  
31 shall execute a joint decertification agreement with the  
32 Department. A decertification of a River Edge Redevelopment  
33 Zone that was initiated by the joint action of the Department  
34 and one or more of the municipalities in which the zone is

1 located shall not become effective until at least 6 months  
2 after the execution of the decertification agreement, which  
3 shall be filed in the office of the Secretary of State.

4 (d) A River Edge Redevelopment Zone may be decertified for  
5 cause by the Department in accordance with this Section. Prior  
6 to decertification:

7 (1) the Department shall notify the chief elected  
8 official of the designating municipality in writing of the  
9 specific deficiencies that provide cause for  
10 decertification;

11 (2) the Department shall place the designating  
12 municipality on probationary status for at least 6 months  
13 during which time corrective action may be achieved in the  
14 zone by the designating municipality; and

15 (3) the Department shall conduct at least one public  
16 hearing within the zone.

17 If such corrective action is not achieved during the  
18 probationary period, the Department shall issue an amended  
19 certificate signed by the Director of the Department  
20 decertifying the zone, which certificate shall be filed in the  
21 office of the Secretary of State. A certified copy of the  
22 amended certificate, or a duplicate original thereof, shall be  
23 recorded in the office of recorder of the county in which the  
24 River Edge Redevelopment Zone lies, and shall be provided to  
25 the chief elected official of the designating municipality.  
26 Decertification of a River Edge Redevelopment Zone for cause  
27 shall not become effective until 60 days after the date of  
28 filing.

29 (e) In the event of a decertification, an amendment  
30 reducing the length of the term or the area of a River Edge  
31 Redevelopment Zone, or the adoption of an ordinance reducing or  
32 eliminating tax benefits in a zone, all benefits previously  
33 extended within the zone pursuant to this Act or pursuant to  
34 any other Illinois law providing benefits specifically to or

1 within River Edge Redevelopment Zones shall remain in effect  
2 for the original stated term of the zone, with respect to  
3 business enterprises within the zone on the effective date of  
4 such decertification or amendment.

5 (f) With respect to a business enterprise (or expansion  
6 thereof) that is proposed or under development within a zone at  
7 the time of a decertification or an amendment reducing the  
8 length of the term of the zone, or excluding from the zone area  
9 the site of the proposed enterprise, or an ordinance reducing  
10 or eliminating tax benefits in a zone, such business enterprise  
11 is entitled to the benefits previously applicable within the  
12 zone for the original stated term of the zone, if the business  
13 enterprise establishes:

14 (i) that the proposed business enterprise or expansion  
15 has been committed to be located within the zone;

16 (ii) that substantial and binding financial  
17 obligations have been made towards the development of such  
18 enterprise; and

19 (iii) that such commitments have been made in  
20 reasonable reliance on the benefits and programs which were  
21 to have been applicable to the enterprise by reason of the  
22 zone, including in the case of a reduction in term of a  
23 zone, the original length of the term.

24 In declaratory judgment actions under this subsection, the  
25 Department and the designating municipality shall be necessary  
26 parties defendant.

27 Section 10-5.4.1. Adoption of tax increment financing.

28 (a) If (i) a redevelopment project area is, will be, or has  
29 been created by a municipality under Division 74.4 of Article  
30 11 of the Illinois Municipal Code, (ii) the redevelopment  
31 project area contains property that is located in a River Edge  
32 Redevelopment Zone, (iii) the municipality adopts an amendment  
33 to the River Edge Redevelopment Zone designating ordinance

1 pursuant to Section 10-4 of this Act specifically concerning  
2 the abatement of taxes on property located within a  
3 redevelopment project area created pursuant to Division 74.4 of  
4 Article 11 of the Illinois Municipal Code, and (iv) the  
5 Department certifies the ordinance amendment, then the  
6 property that is located in both the River Edge Redevelopment  
7 Zone and the redevelopment project area shall not be eligible  
8 for the abatement of taxes under Section 18-170 of the Property  
9 Tax Code.

10 No business enterprise or expansion or individual,  
11 however, that has constructed a new improvement or renovated or  
12 rehabilitated an existing improvement and has received an  
13 abatement on the improvement under Section 18-170 of the  
14 Property Tax Code shall be denied any benefit previously  
15 extended within the zone pursuant to this Act or pursuant to  
16 any other Illinois law providing benefits specifically to or  
17 within River Edge Redevelopment Zones. Moreover, if the  
18 business enterprise or individual presents evidence to the  
19 municipality within 30 days after the adoption by the  
20 municipality of an amendment to the designating ordinance the  
21 sufficiency of which shall be determined by findings of the  
22 corporate authorities made within 30 days of the receipt of  
23 such evidence by the municipality, that before the date of the  
24 notice of the public hearing provided by the municipality  
25 regarding the amendment to the designating ordinance (i) the  
26 business enterprise or expansion or individual was committed to  
27 locate within the River Edge Redevelopment Zone, (ii)  
28 substantial and binding financial obligations were made  
29 towards the development of the enterprise, and (iii) those  
30 commitments were made in reasonable reliance on the benefits  
31 and programs that were applicable to the enterprise or  
32 individual by reason of River Edge Redevelopment Zone, then the  
33 enterprise or expansion or individual shall not be denied any  
34 benefit previously extended within the zone pursuant to this

1 Act or pursuant to any other Illinois law providing benefits  
2 specifically to or within River Edge Redevelopment Zones.

3 (b) This Section applies to all property located within  
4 both a redevelopment project area adopted under Division 74.4  
5 of Article 11 of the Illinois Municipal Code and a River Edge  
6 Redevelopment Zone even if the redevelopment project area was  
7 adopted before the effective date of this Act.

8 (c) After the effective date of this Act, if (i) a  
9 redevelopment project area is created by a municipality under  
10 Division 74.4 of Article 11 of the Illinois Municipal Code and  
11 (ii) the redevelopment project area contains property that is  
12 located in a River Edge Redevelopment Zone, the municipality  
13 must adopt an amendment to the certified River Edge  
14 Redevelopment Zone designating ordinance under Section 10-5.4  
15 specifying that property that is located in both the River Edge  
16 Redevelopment Zone and the redevelopment project area shall not  
17 be eligible for any abatement of taxes under Section 18-170 of  
18 the Property Tax Code for new improvements or the renovation or  
19 rehabilitation of existing improvements.

20 (d) In declaratory judgment actions under this Section, the  
21 Department and the designating municipality shall be necessary  
22 parties defendant.

23 Section 10-6. Powers and duties of Department.

24 (a) The Department shall administer this Act and shall have  
25 the following powers and duties:

26 (1) To monitor the implementation of this Act and  
27 submit reports evaluating the effectiveness of the program  
28 and setting forth any suggestions for legislation to the  
29 Governor and General Assembly by October 1 of each year  
30 preceding a regular Session of the General Assembly.

31 (2) To adopt all necessary rules and regulations to  
32 carry out the purposes of this Act in accordance with The  
33 Illinois Administrative Procedure Act.

1           (b) The Department shall provide information and  
2 appropriate assistance to persons desiring to locate and engage  
3 in business in a River Edge Redevelopment Zone and to persons  
4 engaged in business in a zone.

5           (c) The Department shall publicize existing tax incentives  
6 and economic development programs within the Zone and upon  
7 request, offer technical assistance in abatement and  
8 alternative revenue source development to local units of  
9 government which have River Edge Redevelopment Zones within  
10 their jurisdiction.

11           (d) In addition to the reports authorized under subsection  
12 (a), no later than December 31, 2009, the Department must  
13 submit a report to the General Assembly evaluating the  
14 effectiveness of this Act in stimulating economic  
15 revitalization in the pilot River Edge Redevelopment Zones  
16 authorized by this Act.

17           Section 10-8. Zone Administration. The administration of a  
18 River Edge Redevelopment Zone shall be under the jurisdiction  
19 of the designating municipality. Each designating municipality  
20 shall, by ordinance, designate a Zone Administrator for the  
21 certified zones within its jurisdiction. A Zone Administrator  
22 must be an officer or employee of the municipality. The Zone  
23 Administrator shall be the liaison between the designating  
24 municipality, the Department, and any designated zone  
25 organizations within zones under his or her jurisdiction.

26           A designating municipality may designate one or more  
27 organizations to be a designated zone organization, as defined  
28 under Section 10-3. The municipality, may, by ordinance,  
29 delegate functions within a River Edge Redevelopment Zone to  
30 one or more designated zone organizations in such zones.

31           Subject to the necessary governmental authorizations,  
32 designated zone organizations may, in coordination with the  
33 municipality, provide or contract for provision of public

1 services including, but not limited to:

2 (1) crime-watch patrols within zone neighborhoods;

3 (2) volunteer day-care centers;

4 (3) recreational activities for zone-area youth;

5 (4) garbage collection;

6 (5) street maintenance and improvements;

7 (6) bridge maintenance and improvements;

8 (7) maintenance and improvement of water and sewer  
9 lines;

10 (8) energy conservation projects;

11 (9) health and clinic services;

12 (10) drug abuse programs;

13 (11) senior citizen assistance programs;

14 (12) park maintenance;

15 (13) rehabilitation, renovation, and operation and  
16 maintenance of low and moderate income housing; and

17 (14) other types of public services as provided by law  
18 or regulation.

19 Section 10-9. Notice of cessation of business operations.  
20 Any business located within the River Edge Redevelopment Zone  
21 that has received tax credits or exemptions, regulatory relief  
22 or any other benefits under this Act shall notify the  
23 Department and the municipal officials in which the Zone is  
24 located within 60 days after the cessation of any business  
25 operations conducted within the Zone. The Department shall  
26 adopt rules to implement and administer this Section.

27 Section 10-10. Income tax deduction.

28 (a) A business entity may receive a deduction against  
29 income subject to State taxes for a contribution to a  
30 designated zone organization if the project for which the  
31 contribution is made has been specifically approved by the  
32 designating municipality and by the Department.



1           (b) Any designated zone organization seeking to have a  
2 project approved for contribution must submit an application to  
3 the Department describing the nature and benefit of the project  
4 and its potential contributors. The application must address  
5 how the following criteria will be met:

6           (1) The project must contribute to the self-help  
7 efforts of the residents of the area involved.

8           (2) The project must involve the residents of the area  
9 in planning and implementing the project.

10           (3) The project must lack sufficient resources.

11           (4) The designated zone organization must be fiscally  
12 responsible for the project.

13           (c) The project must enhance the River Edge Redevelopment  
14 Zone in one of the following ways:

15           (1) by creating permanent jobs;

16           (2) by physically improving the housing stock;

17           (3) by stimulating neighborhood business activity; or

18           (4) by preventing crime.

19           (d) If the designated zone organization demonstrates its  
20 ability to meet the criteria in subsection (b), and the project  
21 will enhance the neighborhood in one of the ways listed in  
22 subsection (c), the Department shall approve the  
23 organization's proposed project and specify the amount of  
24 contributions it is eligible to receive for such project.  
25 Comments from State elected officials and municipal officials  
26 of the units of local government in which all or part of the  
27 river edge redevelopment zone is located, or in which the  
28 project is proposed to be located, shall be solicited by the  
29 Department in making such decision.

30           (e) Within 45 days of the receipt of an application, the  
31 Department shall give notice to the applicant as to whether the  
32 application has been approved or disapproved. If the Department  
33 disapproves the application, it shall specify the reasons for  
34 this decision and allow 60 days for the applicant to amend and

1 resubmit its application. The Department shall provide  
2 assistance upon request to applicants. Resubmitted  
3 applications shall receive the Department's approval or  
4 disapproval within 30 days of resubmission. Those resubmitted  
5 applications satisfying initial Department objectives shall be  
6 approved unless reasonable circumstances warrant disapproval.

7 (f) On an annual basis, the designated zone organization  
8 shall furnish a statement to the Department on the programmatic  
9 and financial status of any approved project and an audited  
10 financial statement of the project.

11 (g) For any project which is approved and for which there  
12 is a specified amount of contributions which the designated  
13 zone organization may receive as provided in subsection (d) of  
14 this Section, the designated zone organization shall provide to  
15 the Department any information necessary to determine the  
16 eligibility of a contribution to the project for a deduction  
17 pursuant to subsection (b) (2) (N) of Section 203 of the Illinois  
18 Income Tax Act. The Department shall certify to the Department  
19 of Revenue the taxpayers eligible for and the amounts of  
20 contributions which those taxpayers may claim as a deduction  
21 pursuant to subsection (b) (2) (N) of Section 203 of the Illinois  
22 Income Tax Act. The total of all actual contributions approved  
23 by the Department for deductions pursuant to subsection  
24 (b) (2) (N) of Section 203 of the Illinois Income Tax Act shall  
25 not exceed \$15,400,000 in any one calendar year.

26 ARTICLE 90.

27 AMENDATORY PROVISIONS

28 Section 90-5. The Department of Commerce and Economic  
29 Opportunity Law of the Civil Administrative Code of Illinois is  
30 amended by adding Section 605-907 as follows:

31 (20 ILCS 605/605-907 new)

1       Sec. 605-907. River Edge Redevelopment Zone assistance  
2 program. The Department may establish and maintain a program to  
3 provide, subject to appropriation, grants and assistance in  
4 connection River Edge Redevelopment Zones that are established  
5 under the River Edge Redevelopment Zone Act. The Department may  
6 adopt any rules necessary for the administration of the program  
7 under this Section.

8       Section 90-10. The Corporate Accountability for Tax  
9 Expenditures Act is amended by changing Section 5 as follows:

10       (20 ILCS 715/5)

11       Sec. 5. Definitions. As used in this Act:

12       "Base years" means the first 2 complete calendar years  
13 following the effective date of a recipient receiving  
14 development assistance.

15       "Date of assistance" means the commencement date of the  
16 assistance agreement, which date triggers the period during  
17 which the recipient is obligated to create or retain jobs and  
18 continue operations at the specific project site.

19       "Default" means that a recipient has not achieved its job  
20 creation, job retention, or wage or benefit goals, as  
21 applicable, during the prescribed period therefor.

22       "Department" means, unless otherwise noted, the Department  
23 of Commerce and Economic Opportunity ~~Community Affairs~~ or any  
24 successor agency.

25       "Development assistance" means (1) tax credits and tax  
26 exemptions (other than given under tax increment financing)  
27 given as an incentive to a recipient business organization  
28 pursuant to an initial certification or an initial designation  
29 made by the Department under the Economic Development for a  
30 Growing Economy Tax Credit Act, River Edge Redevelopment Zone  
31 Act, and the Illinois Enterprise Zone Act, including the High  
32 Impact Business program, (2) grants or loans given to a

1 recipient as an incentive to a business organization pursuant  
2 to the River Edge Redevelopment Zone Act, Large Business  
3 Development Program, the Business Development Public  
4 Infrastructure Program, or the Industrial Training Program,  
5 (3) the State Treasurer's Economic Program Loans, (4) the  
6 Illinois Department of Transportation Economic Development  
7 Program, and (5) all successor and subsequent programs and tax  
8 credits designed to promote large business relocations and  
9 expansions. "Development assistance" does not include tax  
10 increment financing, assistance provided under the Illinois  
11 Enterprise Zone Act and River Edge Redevelopment Zone Act  
12 pursuant to local ordinance, participation loans, or financial  
13 transactions through statutorily authorized financial  
14 intermediaries in support of small business loans and  
15 investments or given in connection with the development of  
16 affordable housing.

17 "Development assistance agreement" means any agreement  
18 executed by the State granting body and the recipient setting  
19 forth the terms and conditions of development assistance to be  
20 provided to the recipient consistent with the final application  
21 for development assistance, including but not limited to the  
22 date of assistance, submitted to and approved by the State  
23 granting body.

24 "Full-time, permanent job" means either: (1) the  
25 definition therefor in the legislation authorizing the  
26 programs described in the definition of development assistance  
27 in the Act or (2) if there is no such definition, then as  
28 defined in administrative rules implementing such legislation,  
29 provided the administrative rules were in place prior to the  
30 effective date of this Act. On and after the effective date of  
31 this Act, if there is no definition of "full-time, permanent  
32 job" in either the legislation authorizing a program that  
33 constitutes economic development assistance under this Act or  
34 in any administrative rule implementing such legislation that

1 was in place prior to the effective date of this Act, then  
2 "full-time, permanent job" means a job in which the new  
3 employee works for the recipient at a rate of at least 35 hours  
4 per week.

5 "New employee" means either: (1) the definition therefor in  
6 the legislation authorizing the programs described in the  
7 definition of development assistance in the Act or (2) if there  
8 is no such definition, then as defined in administrative rules  
9 implementing such legislation, provided the administrative  
10 rules were in place prior to the effective date of this Act. On  
11 and after the effective date of this Act, if there is no  
12 definition of "new employee" in either the legislation  
13 authorizing a program that constitutes economic development  
14 assistance under this Act nor in any administrative rule  
15 implementing such legislation that was in place prior to the  
16 effective date of this Act, then "new employee" means a  
17 full-time, permanent employee who represents a net increase in  
18 the number of the recipient's employees statewide. "New  
19 employee" includes an employee who previously filled a new  
20 employee position with the recipient who was rehired or called  
21 back from a layoff that occurs during or following the base  
22 years.

23 The term "New Employee" does not include any of the  
24 following:

25 (1) An employee of the recipient who performs a job  
26 that was previously performed by another employee in this  
27 State, if that job existed in this State for at least 6  
28 months before hiring the employee.

29 (2) A child, grandchild, parent, or spouse, other than  
30 a spouse who is legally separated from the individual, of  
31 any individual who has a direct or indirect ownership  
32 interest of at least 5% in the profits, capital, or value  
33 of any member of the recipient.

34 "Part-time job" means either: (1) the definition therefor

1 in the legislation authorizing the programs described in the  
2 definition of development assistance in the Act or (2) if there  
3 is no such definition, then as defined in administrative rules  
4 implementing such legislation, provided the administrative  
5 rules were in place prior to the effective date of this Act. On  
6 and after the effective date of this Act, if there is no  
7 definition of "part-time job" in either the legislation  
8 authorizing a program that constitutes economic development  
9 assistance under this Act or in any administrative rule  
10 implementing such legislation that was in place prior to the  
11 effective date of this Act, then "part-time job" means a job in  
12 which the new employee works for the recipient at a rate of  
13 less than 35 hours per week.

14 "Recipient" means any business that receives economic  
15 development assistance. A business is any corporation, limited  
16 liability company, partnership, joint venture, association,  
17 sole proprietorship, or other legally recognized entity.

18 "Retained employee" means either: (1) the definition  
19 therefor in the legislation authorizing the programs described  
20 in the definition of development assistance in the Act or (2)  
21 if there is no such definition, then as defined in  
22 administrative rules implementing such legislation, provided  
23 the administrative rules were in place prior to the effective  
24 date of this Act. On and after the effective date of this Act,  
25 if there is no definition of "retained employee" in either the  
26 legislation authorizing a program that constitutes economic  
27 development assistance under this Act or in any administrative  
28 rule implementing such legislation that was in place prior to  
29 the effective date of this Act, then "retained employee" means  
30 any employee defined as having a full-time or full-time  
31 equivalent job preserved at a specific facility or site, the  
32 continuance of which is threatened by a specific and  
33 demonstrable threat, which shall be specified in the  
34 application for development assistance.

1 "Specific project site" means that distinct operational  
2 unit to which any development assistance is applied.

3 "State granting body" means the Department, any State  
4 department or State agency that provides development  
5 assistance that has reporting requirements under this Act, and  
6 any successor agencies to any of the preceding.

7 "Temporary job" means either: (1) the definition therefor  
8 in the legislation authorizing the programs described in the  
9 definition of development assistance in the Act or (2) if there  
10 is no such definition, then as defined in administrative rules  
11 implementing such legislation, provided the administrative  
12 rules were in place prior to the effective date of this Act. On  
13 and after the effective date of this Act, if there is no  
14 definition of "temporary job" in either the legislation  
15 authorizing a program that constitutes economic development  
16 assistance under this Act or in any administrative rule  
17 implementing such legislation that was in place prior to the  
18 effective date of this Act, then "temporary job" means a job in  
19 which the new employee is hired for a specific duration of time  
20 or season.

21 "Value of assistance" means the face value of any form of  
22 development assistance.

23 (Source: P.A. 93-552, eff. 8-20-03; revised 12-6-03.)

24 Section 90-15. The Illinois Income Tax Act is amended by  
25 changing Sections 201 and 203 as follows:

26 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

27 Sec. 201. Tax Imposed.

28 (a) In general. A tax measured by net income is hereby  
29 imposed on every individual, corporation, trust and estate for  
30 each taxable year ending after July 31, 1969 on the privilege  
31 of earning or receiving income in or as a resident of this  
32 State. Such tax shall be in addition to all other occupation or

1 privilege taxes imposed by this State or by any municipal  
2 corporation or political subdivision thereof.

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

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

10 (2) In the case of an individual, trust or estate, for  
11 taxable years beginning prior to July 1, 1989 and ending  
12 after June 30, 1989, an amount equal to the sum of (i) 2  
13 1/2% of the taxpayer's net income for the period prior to  
14 July 1, 1989, as calculated under Section 202.3, and (ii)  
15 3% of the taxpayer's net income for the period after June  
16 30, 1989, as calculated under Section 202.3.

17 (3) In the case of an individual, trust or estate, for  
18 taxable years beginning after June 30, 1989, an amount  
19 equal to 3% of the taxpayer's net income for the taxable  
20 year.

21 (4) (Blank).

22 (5) (Blank).

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

26 (7) In the case of a corporation, for taxable years  
27 beginning prior to July 1, 1989 and ending after June 30,  
28 1989, an amount equal to the sum of (i) 4% of the  
29 taxpayer's net income for the period prior to July 1, 1989,  
30 as calculated under Section 202.3, and (ii) 4.8% of the  
31 taxpayer's net income for the period after June 30, 1989,  
32 as calculated under Section 202.3.

33 (8) In the case of a corporation, for taxable years  
34 beginning after June 30, 1989, an amount equal to 4.8% of



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

2 (c) Personal Property Tax Replacement Income Tax.

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

15 (d) Additional Personal Property Tax Replacement Income  
16 Tax Rates. The personal property tax replacement income tax  
17 imposed by this subsection and subsection (c) of this Section  
18 in the case of a corporation, other than a Subchapter S  
19 corporation and except as adjusted by subsection (d-1), shall  
20 be an additional amount equal to 2.85% of such taxpayer's net  
21 income for the taxable year, except that beginning on January  
22 1, 1981, and thereafter, the rate of 2.85% specified in this  
23 subsection shall be reduced to 2.5%, and in the case of a  
24 partnership, trust or a Subchapter S corporation shall be an  
25 additional amount equal to 1.5% of such taxpayer's net income  
26 for the taxable year.

27 (d-1) Rate reduction for certain foreign insurers. In the  
28 case of a foreign insurer, as defined by Section 35A-5 of the  
29 Illinois Insurance Code, whose state or country of domicile  
30 imposes on insurers domiciled in Illinois a retaliatory tax  
31 (excluding any insurer whose premiums from reinsurance assumed  
32 are 50% or more of its total insurance premiums as determined  
33 under paragraph (2) of subsection (b) of Section 304, except  
34 that for purposes of this determination premiums from

1 reinsurance do not include premiums from inter-affiliate  
2 reinsurance arrangements), beginning with taxable years ending  
3 on or after December 31, 1999, the sum of the rates of tax  
4 imposed by subsections (b) and (d) shall be reduced (but not  
5 increased) to the rate at which the total amount of tax imposed  
6 under this Act, net of all credits allowed under this Act,  
7 shall equal (i) the total amount of tax that would be imposed  
8 on the foreign insurer's net income allocable to Illinois for  
9 the taxable year by such foreign insurer's state or country of  
10 domicile if that net income were subject to all income taxes  
11 and taxes measured by net income imposed by such foreign  
12 insurer's state or country of domicile, net of all credits  
13 allowed or (ii) a rate of zero if no such tax is imposed on such  
14 income by the foreign insurer's state of domicile. For the  
15 purposes of this subsection (d-1), an inter-affiliate includes  
16 a mutual insurer under common management.

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

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

23 (B) the privilege tax imposed by Section 409 of the  
24 Illinois Insurance Code, the fire insurance company  
25 tax imposed by Section 12 of the Fire Investigation  
26 Act, and the fire department taxes imposed under  
27 Section 11-10-1 of the Illinois Municipal Code,

28 equals 1.25% for taxable years ending prior to December 31,  
29 2003, or 1.75% for taxable years ending on or after  
30 December 31, 2003, of the net taxable premiums written for  
31 the taxable year, as described by subsection (1) of Section  
32 409 of the Illinois Insurance Code. This paragraph will in  
33 no event increase the rates imposed under subsections (b)  
34 and (d).

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

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

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

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

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

1 that is available to offset a liability, earlier credit  
2 shall be applied first.

3 (2) The term "qualified property" means property  
4 which:

5 (A) is tangible, whether new or used, including  
6 buildings and structural components of buildings and  
7 signs that are real property, but not including land or  
8 improvements to real property that are not a structural  
9 component of a building such as landscaping, sewer  
10 lines, local access roads, fencing, parking lots, and  
11 other appurtenances;

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

17 (C) is acquired by purchase as defined in Section  
18 179(d) of the Internal Revenue Code;

19 (D) is used in Illinois by a taxpayer who is  
20 primarily engaged in manufacturing, or in mining coal  
21 or fluorite, or in retailing, or was placed in service  
22 on or after July 1, 2006 in a River Edge Redevelopment  
23 Zone established pursuant to the River Edge  
24 Redevelopment Zone Act; and

25 (E) has not previously been used in Illinois in  
26 such a manner and by such a person as would qualify for  
27 the credit provided by this subsection (e) or  
28 subsection (f).

29 (3) For purposes of this subsection (e),  
30 "manufacturing" means the material staging and production  
31 of tangible personal property by procedures commonly  
32 regarded as manufacturing, processing, fabrication, or  
33 assembling which changes some existing material into new  
34 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 or services rendered in conjunction with the sale  
6       of tangible consumer goods or commodities.

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

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

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

17            (7) If during any taxable year, any property ceases to  
18       be qualified property in the hands of the taxpayer within  
19       48 months after being placed in service, or the situs of  
20       any qualified property is moved outside Illinois within 48  
21       months after being placed in service, the Personal Property  
22       Tax Replacement Income Tax for such taxable year shall be  
23       increased. Such increase shall be determined by (i)  
24       recomputing the investment credit which would have been  
25       allowed for the year in which credit for such property was  
26       originally allowed by eliminating such property from such  
27       computation and, (ii) subtracting such recomputed credit  
28       from the amount of credit previously allowed. For the  
29       purposes of this paragraph (7), a reduction of the basis of  
30       qualified property resulting from a redetermination of the  
31       purchase price shall be deemed a disposition of qualified  
32       property to the extent of such reduction.

33            (8) Unless the investment credit is extended by law,  
34       the basis of qualified property shall not include costs

1 incurred after December 31, 2008, except for costs incurred  
2 pursuant to a binding contract entered into on or before  
3 December 31, 2008.

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

20 For taxable years ending on or after December 31, 2000,  
21 a partner that qualifies its partnership for a subtraction  
22 under subparagraph (I) of paragraph (2) of subsection (d)  
23 of Section 203 or a shareholder that qualifies a Subchapter  
24 S corporation for a subtraction under subparagraph (S) of  
25 paragraph (2) of subsection (b) of Section 203 shall be  
26 allowed a credit under this subsection (e) equal to its  
27 share of the credit earned under this subsection (e) during  
28 the taxable year by the partnership or Subchapter S  
29 corporation, determined in accordance with the  
30 determination of income and distributive share of income  
31 under Sections 702 and 704 and Subchapter S of the Internal  
32 Revenue Code. This paragraph is exempt from the provisions  
33 of Section 250.

34 (f) Investment credit; Enterprise Zone; River Edge

1 Redevelopment Zone.

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



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

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

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 (f);

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

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

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

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

20 (4) If the basis of the property for federal income tax  
21 depreciation purposes is increased after it has been placed  
22 in service in the Enterprise Zone or River Edge  
23 Redevelopment Zone by the taxpayer, the amount of such  
24 increase shall be deemed property placed in service on the  
25 date of such increase in basis.

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

28 (6) If during any taxable year, any property ceases to  
29 be qualified property in the hands of the taxpayer within  
30 48 months after being placed in service, or the situs of  
31 any qualified property is moved outside the Enterprise Zone  
32 or River Edge Redevelopment Zone within 48 months after  
33 being placed in service, the tax imposed under subsections  
34 (a) and (b) of this Section for such taxable year shall be

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

11 (7) There shall be allowed an additional credit equal  
12 to 0.5% of the basis of qualified property placed in  
13 service during the taxable year in a River Edge  
14 Redevelopment Zone, provided such property is placed in  
15 service on or after July 1, 2006, and the taxpayer's base  
16 employment within Illinois has increased by 1% or more over  
17 the preceding year as determined by the taxpayer's  
18 employment records filed with the Illinois Department of  
19 Employment Security. Taxpayers who are new to Illinois  
20 shall be deemed to have met the 1% growth in base  
21 employment for the first year in which they file employment  
22 records with the Illinois Department of Employment  
23 Security. If, in any year, the increase in base employment  
24 within Illinois over the preceding year is less than 1%,  
25 the additional credit shall be limited to that percentage  
26 times a fraction, the numerator of which is 0.5% and the  
27 denominator of which is 1%, but shall not exceed 0.5%.

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

30 (1) A taxpayer conducting a trade or business in an  
31 enterprise zone or a High Impact Business designated by the  
32 Department of Commerce and Economic Opportunity or for  
33 taxable years ending on or after December 31, 2006, in a  
34 River Edge Redevelopment Zone conducting a trade or

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

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

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

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

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

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

1 (C) Employed in the enterprise zone, River Edge  
2 Redevelopment Zone, or Foreign Trade Zone or Sub-Zone.

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

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

9 (4) For tax years ending on or after December 31, 1985  
10 and prior to December 31, 1988, the credit shall be allowed  
11 for the tax year in which the eligible employees are hired.  
12 For tax years ending on or after December 31, 1988, the  
13 credit shall be allowed for the tax year immediately  
14 following the tax year in which the eligible employees are  
15 hired. If the amount of the credit exceeds the tax  
16 liability for that year, whether it exceeds the original  
17 liability or the liability as later amended, such excess  
18 may be carried forward and applied to the tax liability of  
19 the 5 taxable years following the excess credit year. The  
20 credit shall be applied to the earliest year for which  
21 there is a liability. If there is credit from more than one  
22 tax year that is available to offset a liability, earlier  
23 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 subsections (b) and (b-5) of Section 5.5  
31 of the Illinois Enterprise Zone Act, a taxpayer shall be  
32 allowed a credit against the tax imposed by subsections (a)  
33 and (b) of this Section for investment in qualified  
34 property which is placed in service by a Department of

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

1 Changes made in this subdivision (h) (1) by Public Act  
2 88-670 restore changes made by Public Act 85-1182 and  
3 reflect existing law.

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

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

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

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

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

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

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

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

28 (6) If during any taxable year ending on or before  
29 December 31, 1996, any property ceases to be qualified  
30 property in the hands of the taxpayer within 48 months  
31 after being placed in service, or the situs of any  
32 qualified property is moved outside Illinois within 48  
33 months after being placed in service, the tax imposed under  
34 subsections (a) and (b) of this Section for such taxable

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

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

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

32 Any credit earned on or after December 31, 1986 under this  
33 subsection which is unused in the year the credit is computed  
34 because it exceeds the tax liability imposed by subsections (a)

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

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

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



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

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

17 (k) Research and development credit.

18 For tax years ending after July 1, 1990 and prior to  
19 December 31, 2003, and beginning again for tax years ending on  
20 or after December 31, 2004, a taxpayer shall be allowed a  
21 credit against the tax imposed by subsections (a) and (b) of  
22 this Section for increasing research activities in this State.  
23 The credit allowed against the tax imposed by subsections (a)  
24 and (b) shall be equal to 6 1/2% of the qualifying expenditures  
25 for increasing research activities in this State. For partners,  
26 shareholders of subchapter S corporations, and owners of  
27 limited liability companies, if the liability company is  
28 treated as a partnership for purposes of federal and State  
29 income taxation, there shall be allowed a credit under this  
30 subsection to be determined in accordance with the  
31 determination of income and distributive share of income under  
32 Sections 702 and 704 and subchapter S of the Internal Revenue  
33 Code.

34 For purposes of this subsection, "qualifying expenditures"

1 means the qualifying expenditures as defined for the federal  
2 credit for increasing research activities which would be  
3 allowable under Section 41 of the Internal Revenue Code and  
4 which are conducted in this State, "qualifying expenditures for  
5 increasing research activities in this State" means the excess  
6 of qualifying expenditures for the taxable year in which  
7 incurred over qualifying expenditures for the base period,  
8 "qualifying expenditures for the base period" means the average  
9 of the qualifying expenditures for each year in the base  
10 period, and "base period" means the 3 taxable years immediately  
11 preceding the taxable year for which the determination is being  
12 made.

13 Any credit in excess of the tax liability for the taxable  
14 year may be carried forward. A taxpayer may elect to have the  
15 unused credit shown on its final completed return carried over  
16 as a credit against the tax liability for the following 5  
17 taxable years or until it has been fully used, whichever occurs  
18 first; provided that no credit earned in a tax year ending  
19 prior to December 31, 2003 may be carried forward to any year  
20 ending on or after December 31, 2003.

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

33 No inference shall be drawn from this amendatory Act of the  
34 91st General Assembly in construing this Section for taxable

1 years beginning before January 1, 1999.

2 (1) Environmental Remediation Tax Credit.

3 (i) For tax years ending after December 31, 1997 and on  
4 or before December 31, 2001, a taxpayer shall be allowed a  
5 credit against the tax imposed by subsections (a) and (b)  
6 of this Section for certain amounts paid for unreimbursed  
7 eligible remediation costs, as specified in this  
8 subsection. For purposes of this Section, "unreimbursed  
9 eligible remediation costs" means costs approved by the  
10 Illinois Environmental Protection Agency ("Agency") under  
11 Section 58.14 of the Environmental Protection Act that were  
12 paid in performing environmental remediation at a site for  
13 which a No Further Remediation Letter was issued by the  
14 Agency and recorded under Section 58.10 of the  
15 Environmental Protection Act. The credit must be claimed  
16 for the taxable year in which Agency approval of the  
17 eligible remediation costs is granted. The credit is not  
18 available to any taxpayer if the taxpayer or any related  
19 party caused or contributed to, in any material respect, a  
20 release of regulated substances on, in, or under the site  
21 that was identified and addressed by the remedial action  
22 pursuant to the Site Remediation Program of the  
23 Environmental Protection Act. After the Pollution Control  
24 Board rules are adopted pursuant to the Illinois  
25 Administrative Procedure Act for the administration and  
26 enforcement of Section 58.9 of the Environmental  
27 Protection Act, determinations as to credit availability  
28 for purposes of this Section shall be made consistent with  
29 those rules. For purposes of this Section, "taxpayer"  
30 includes a person whose tax attributes the taxpayer has  
31 succeeded to under Section 381 of the Internal Revenue Code  
32 and "related party" includes the persons disallowed a  
33 deduction for losses by paragraphs (b), (c), and (f)(1) of  
34 Section 267 of the Internal Revenue Code by virtue of being

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

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. The  
20 term "unused credit" does not include any amounts of  
21 unreimbursed eligible remediation costs in excess of the  
22 maximum credit per site authorized under paragraph (i).  
23 This credit shall be applied first to the earliest year for  
24 which there is a liability. If there is a credit under this  
25 subsection from more than one tax year that is available to  
26 offset a liability, the earliest credit arising under this  
27 subsection shall be applied first. A credit allowed under  
28 this subsection may be sold to a buyer as part of a sale of  
29 all or part of the remediation site for which the credit  
30 was granted. The purchaser of a remediation site and the  
31 tax credit shall succeed to the unused credit and remaining  
32 carry-forward period of the seller. To perfect the  
33 transfer, the assignor shall record the transfer in the  
34 chain of title for the site and provide written notice to

1 the Director of the Illinois Department of Revenue of the  
2 assignor's intent to sell the remediation site and the  
3 amount of the tax credit to be transferred as a portion of  
4 the sale. In no event may a credit be transferred to any  
5 taxpayer if the taxpayer or a related party would not be  
6 eligible under the provisions of subsection (i).

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

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

22 For purposes of this subsection:

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

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

34 "School" means any public or nonpublic elementary or

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

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

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

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

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

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

1 eligible under the provisions of subsection (i).

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

5 (iv) This subsection is exempt from the provisions of  
6 Section 250.

7 (Source: P.A. 92-12, eff. 7-1-01; 92-16, eff. 6-28-01; 92-651,  
8 eff. 7-11-02; 93-840, eff. 7-30-04; 92-846, eff. 8-23-02;  
9 93-29, eff. 6-20-03; 93-840, eff. 7-30-04; 93-871, eff. 8-6-04;  
10 revised 10-25-04.)

11 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

12 Sec. 203. Base income defined.

13 (a) Individuals.

14 (1) In general. In the case of an individual, base  
15 income means an amount equal to the taxpayer's adjusted  
16 gross income for the taxable year as modified by paragraph  
17 (2).

18 (2) Modifications. The adjusted gross income referred  
19 to in paragraph (1) shall be modified by adding thereto the  
20 sum of the following amounts:

21 (A) An amount equal to all amounts paid or accrued  
22 to the taxpayer as interest or dividends during the  
23 taxable year to the extent excluded from gross income  
24 in the computation of adjusted gross income, except  
25 stock dividends of qualified public utilities  
26 described in Section 305(e) of the Internal Revenue  
27 Code;

28 (B) An amount equal to the amount of tax imposed by  
29 this Act to the extent deducted from gross income in  
30 the computation of adjusted gross income for the  
31 taxable year;

32 (C) An amount equal to the amount received during  
33 the taxable year as a recovery or refund of real



1 property taxes paid with respect to the taxpayer's  
2 principal residence under the Revenue Act of 1939 and  
3 for which a deduction was previously taken under  
4 subparagraph (L) of this paragraph (2) prior to July 1,  
5 1991, the retrospective application date of Article 4  
6 of Public Act 87-17. In the case of multi-unit or  
7 multi-use structures and farm dwellings, the taxes on  
8 the taxpayer's principal residence shall be that  
9 portion of the total taxes for the entire property  
10 which is attributable to such principal residence;

11 (D) An amount equal to the amount of the capital  
12 gain deduction allowable under the Internal Revenue  
13 Code, to the extent deducted from gross income in the  
14 computation of adjusted gross income;

15 (D-5) An amount, to the extent not included in  
16 adjusted gross income, equal to the amount of money  
17 withdrawn by the taxpayer in the taxable year from a  
18 medical care savings account and the interest earned on  
19 the account in the taxable year of a withdrawal  
20 pursuant to subsection (b) of Section 20 of the Medical  
21 Care Savings Account Act or subsection (b) of Section  
22 20 of the Medical Care Savings Account Act of 2000;

23 (D-10) For taxable years ending after December 31,  
24 1997, an amount equal to any eligible remediation costs  
25 that the individual deducted in computing adjusted  
26 gross income and for which the individual claims a  
27 credit under subsection (l) of Section 201;

28 (D-15) For taxable years 2001 and thereafter, an  
29 amount equal to the bonus depreciation deduction (30%  
30 of the adjusted basis of the qualified property) taken  
31 on the taxpayer's federal income tax return for the  
32 taxable year under subsection (k) of Section 168 of the  
33 Internal Revenue Code;

34 (D-16) If the taxpayer reports a capital gain or

1           loss on the taxpayer's federal income tax return for  
2           the taxable year based on a sale or transfer of  
3           property for which the taxpayer was required in any  
4           taxable year to make an addition modification under  
5           subparagraph (D-15), then an amount equal to the  
6           aggregate amount of the deductions taken in all taxable  
7           years under subparagraph (Z) with respect to that  
8           property.

9           The taxpayer is required to make the addition  
10          modification under this subparagraph only once with  
11          respect to any one piece of property;

12          (D-17) For taxable years ending on or after  
13          December 31, 2004, an amount equal to the amount  
14          otherwise allowed as a deduction in computing base  
15          income for interest paid, accrued, or incurred,  
16          directly or indirectly, to a foreign person who would  
17          be a member of the same unitary business group but for  
18          the fact that foreign person's business activity  
19          outside the United States is 80% or more of the foreign  
20          person's total business activity. The addition  
21          modification required by this subparagraph shall be  
22          reduced to the extent that dividends were included in  
23          base income of the unitary group for the same taxable  
24          year and received by the taxpayer or by a member of the  
25          taxpayer's unitary business group (including amounts  
26          included in gross income under Sections 951 through 964  
27          of the Internal Revenue Code and amounts included in  
28          gross income under Section 78 of the Internal Revenue  
29          Code) with respect to the stock of the same person to  
30          whom the interest was paid, accrued, or incurred.

31          This paragraph shall not apply to the following:

32                 (i) an item of interest paid, accrued, or  
33                 incurred, directly or indirectly, to a foreign  
34                 person who is subject in a foreign country or

1 state, other than a state which requires mandatory  
2 unitary reporting, to a tax on or measured by net  
3 income with respect to such interest; or

4 (ii) an item of interest paid, accrued, or  
5 incurred, directly or indirectly, to a foreign  
6 person if the taxpayer can establish, based on a  
7 preponderance of the evidence, both of the  
8 following:

9 (a) the foreign person, during the same  
10 taxable year, paid, accrued, or incurred, the  
11 interest to a person that is not a related  
12 member, and

13 (b) the transaction giving rise to the  
14 interest expense between the taxpayer and the  
15 foreign person did not have as a principal  
16 purpose the avoidance of Illinois income tax,  
17 and is paid pursuant to a contract or agreement  
18 that reflects an arm's-length interest rate  
19 and terms; or

20 (iii) the taxpayer can establish, based on  
21 clear and convincing evidence, that the interest  
22 paid, accrued, or incurred relates to a contract or  
23 agreement entered into at arm's-length rates and  
24 terms and the principal purpose for the payment is  
25 not federal or Illinois tax avoidance; or

26 (iv) an item of interest paid, accrued, or  
27 incurred, directly or indirectly, to a foreign  
28 person if the taxpayer establishes by clear and  
29 convincing evidence that the adjustments are  
30 unreasonable; or if the taxpayer and the Director  
31 agree in writing to the application or use of an  
32 alternative method of apportionment under Section  
33 304(f).

34 Nothing in this subsection shall preclude the

1 Director from making any other adjustment  
2 otherwise allowed under Section 404 of this Act for  
3 any tax year beginning after the effective date of  
4 this amendment provided such adjustment is made  
5 pursuant to regulation adopted by the Department  
6 and such regulations provide methods and standards  
7 by which the Department will utilize its authority  
8 under Section 404 of this Act;

9 (D-18) For taxable years ending on or after  
10 December 31, 2004, an amount equal to the amount of  
11 intangible expenses and costs otherwise allowed as a  
12 deduction in computing base income, and that were paid,  
13 accrued, or incurred, directly or indirectly, to a  
14 foreign person who would be a member of the same  
15 unitary business group but for the fact that the  
16 foreign person's business activity outside the United  
17 States is 80% or more of that person's total business  
18 activity. The addition modification required by this  
19 subparagraph shall be reduced to the extent that  
20 dividends were included in base income of the unitary  
21 group for the same taxable year and received by the  
22 taxpayer or by a member of the taxpayer's unitary  
23 business group (including amounts included in gross  
24 income under Sections 951 through 964 of the Internal  
25 Revenue Code and amounts included in gross income under  
26 Section 78 of the Internal Revenue Code) with respect  
27 to the stock of the same person to whom the intangible  
28 expenses and costs were directly or indirectly paid,  
29 incurred, or accrued. The preceding sentence does not  
30 apply to the extent that the same dividends caused a  
31 reduction to the addition modification required under  
32 Section 203(a)(2)(D-17) of this Act. As used in this  
33 subparagraph, the term "intangible expenses and costs"  
34 includes (1) expenses, losses, and costs for, or

1 related to, the direct or indirect acquisition, use,  
2 maintenance or management, ownership, sale, exchange,  
3 or any other disposition of intangible property; (2)  
4 losses incurred, directly or indirectly, from  
5 factoring transactions or discounting transactions;  
6 (3) royalty, patent, technical, and copyright fees;  
7 (4) licensing fees; and (5) other similar expenses and  
8 costs. For purposes of this subparagraph, "intangible  
9 property" includes patents, patent applications, trade  
10 names, trademarks, service marks, copyrights, mask  
11 works, trade secrets, and similar types of intangible  
12 assets.

13 This paragraph shall not apply to the following:

14 (i) any item of intangible expenses or costs  
15 paid, accrued, or incurred, directly or  
16 indirectly, from a transaction with a foreign  
17 person who is subject in a foreign country or  
18 state, other than a state which requires mandatory  
19 unitary reporting, to a tax on or measured by net  
20 income with respect to such item; or

21 (ii) any item of intangible expense or cost  
22 paid, accrued, or incurred, directly or  
23 indirectly, if the taxpayer can establish, based  
24 on a preponderance of the evidence, both of the  
25 following:

26 (a) the foreign person during the same  
27 taxable year paid, accrued, or incurred, the  
28 intangible expense or cost to a person that is  
29 not a related member, and

30 (b) the transaction giving rise to the  
31 intangible expense or cost between the  
32 taxpayer and the foreign person did not have as  
33 a principal purpose the avoidance of Illinois  
34 income tax, and is paid pursuant to a contract

1 or agreement that reflects arm's-length terms;

2 or

3 (iii) any item of intangible expense or cost  
4 paid, accrued, or incurred, directly or  
5 indirectly, from a transaction with a foreign  
6 person if the taxpayer establishes by clear and  
7 convincing evidence, that the adjustments are  
8 unreasonable; or if the taxpayer and the Director  
9 agree in writing to the application or use of an  
10 alternative method of apportionment under Section  
11 304(f);

12 Nothing in this subsection shall preclude the  
13 Director from making any other adjustment  
14 otherwise allowed under Section 404 of this Act for  
15 any tax year beginning after the effective date of  
16 this amendment provided such adjustment is made  
17 pursuant to regulation adopted by the Department  
18 and such regulations provide methods and standards  
19 by which the Department will utilize its authority  
20 under Section 404 of this Act;

21 (D-20) For taxable years beginning on or after  
22 January 1, 2002, in the case of a distribution from a  
23 qualified tuition program under Section 529 of the  
24 Internal Revenue Code, other than (i) a distribution  
25 from a College Savings Pool created under Section 16.5  
26 of the State Treasurer Act or (ii) a distribution from  
27 the Illinois Prepaid Tuition Trust Fund, an amount  
28 equal to the amount excluded from gross income under  
29 Section 529(c)(3)(B);

30 and by deducting from the total so obtained the sum of the  
31 following amounts:

32 (E) For taxable years ending before December 31,  
33 2001, any amount included in such total in respect of  
34 any compensation (including but not limited to any

1 compensation paid or accrued to a serviceman while a  
2 prisoner of war or missing in action) paid to a  
3 resident by reason of being on active duty in the Armed  
4 Forces of the United States and in respect of any  
5 compensation paid or accrued to a resident who as a  
6 governmental employee was a prisoner of war or missing  
7 in action, and in respect of any compensation paid to a  
8 resident in 1971 or thereafter for annual training  
9 performed pursuant to Sections 502 and 503, Title 32,  
10 United States Code as a member of the Illinois National  
11 Guard. For taxable years ending on or after December  
12 31, 2001, any amount included in such total in respect  
13 of any compensation (including but not limited to any  
14 compensation paid or accrued to a serviceman while a  
15 prisoner of war or missing in action) paid to a  
16 resident by reason of being a member of any component  
17 of the Armed Forces of the United States and in respect  
18 of any compensation paid or accrued to a resident who  
19 as a governmental employee was a prisoner of war or  
20 missing in action, and in respect of any compensation  
21 paid to a resident in 2001 or thereafter by reason of  
22 being a member of the Illinois National Guard. The  
23 provisions of this amendatory Act of the 92nd General  
24 Assembly are exempt from the provisions of Section 250;

25 (F) An amount equal to all amounts included in such  
26 total pursuant to the provisions of Sections 402(a),  
27 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the  
28 Internal Revenue Code, or included in such total as  
29 distributions under the provisions of any retirement  
30 or disability plan for employees of any governmental  
31 agency or unit, or retirement payments to retired  
32 partners, which payments are excluded in computing net  
33 earnings from self employment by Section 1402 of the  
34 Internal Revenue Code and regulations adopted pursuant

1 thereto;

2 (G) The valuation limitation amount;

3 (H) An amount equal to the amount of any tax  
4 imposed by this Act which was refunded to the taxpayer  
5 and included in such total for the taxable year;

6 (I) An amount equal to all amounts included in such  
7 total pursuant to the provisions of Section 111 of the  
8 Internal Revenue Code as a recovery of items previously  
9 deducted from adjusted gross income in the computation  
10 of taxable income;

11 (J) An amount equal to those dividends included in  
12 such total which were paid by a corporation which  
13 conducts business operations in an Enterprise Zone or  
14 zones created under the Illinois Enterprise Zone Act or  
15 a River Edge Redevelopment Zone or zones created under  
16 the River Edge Redevelopment Zone Act, and conducts  
17 substantially all of its operations in an Enterprise  
18 Zone or zones or a River Edge Redevelopment Zone or  
19 zones. This subparagraph (J) is exempt from the  
20 provisions of Section 250;

21 (K) An amount equal to those dividends included in  
22 such total that were paid by a corporation that  
23 conducts business operations in a federally designated  
24 Foreign Trade Zone or Sub-Zone and that is designated a  
25 High Impact Business located in Illinois; provided  
26 that dividends eligible for the deduction provided in  
27 subparagraph (J) of paragraph (2) of this subsection  
28 shall not be eligible for the deduction provided under  
29 this subparagraph (K);

30 (L) For taxable years ending after December 31,  
31 1983, an amount equal to all social security benefits  
32 and railroad retirement benefits included in such  
33 total pursuant to Sections 72(r) and 86 of the Internal  
34 Revenue Code;



1 (M) With the exception of any amounts subtracted  
2 under subparagraph (N), an amount equal to the sum of  
3 all amounts disallowed as deductions by (i) Sections  
4 171(a) (2), and 265(2) of the Internal Revenue Code of  
5 1954, as now or hereafter amended, and all amounts of  
6 expenses allocable to interest and disallowed as  
7 deductions by Section 265(1) of the Internal Revenue  
8 Code of 1954, as now or hereafter amended; and (ii) for  
9 taxable years ending on or after August 13, 1999,  
10 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of  
11 the Internal Revenue Code; the provisions of this  
12 subparagraph are exempt from the provisions of Section  
13 250;

14 (N) An amount equal to all amounts included in such  
15 total which are exempt from taxation by this State  
16 either by reason of its statutes or Constitution or by  
17 reason of the Constitution, treaties or statutes of the  
18 United States; provided that, in the case of any  
19 statute of this State that exempts income derived from  
20 bonds or other obligations from the tax imposed under  
21 this Act, the amount exempted shall be the interest net  
22 of bond premium amortization;

23 (O) An amount equal to any contribution made to a  
24 job training project established pursuant to the Tax  
25 Increment Allocation Redevelopment Act;

26 (P) An amount equal to the amount of the deduction  
27 used to compute the federal income tax credit for  
28 restoration of substantial amounts held under claim of  
29 right for the taxable year pursuant to Section 1341 of  
30 the Internal Revenue Code of 1986;

31 (Q) An amount equal to any amounts included in such  
32 total, received by the taxpayer as an acceleration in  
33 the payment of life, endowment or annuity benefits in  
34 advance of the time they would otherwise be payable as

1 an indemnity for a terminal illness;

2 (R) An amount equal to the amount of any federal or  
3 State bonus paid to veterans of the Persian Gulf War;

4 (S) An amount, to the extent included in adjusted  
5 gross income, equal to the amount of a contribution  
6 made in the taxable year on behalf of the taxpayer to a  
7 medical care savings account established under the  
8 Medical Care Savings Account Act or the Medical Care  
9 Savings Account Act of 2000 to the extent the  
10 contribution is accepted by the account administrator  
11 as provided in that Act;

12 (T) An amount, to the extent included in adjusted  
13 gross income, equal to the amount of interest earned in  
14 the taxable year on a medical care savings account  
15 established under the Medical Care Savings Account Act  
16 or the Medical Care Savings Account Act of 2000 on  
17 behalf of the taxpayer, other than interest added  
18 pursuant to item (D-5) of this paragraph (2);

19 (U) For one taxable year beginning on or after  
20 January 1, 1994, an amount equal to the total amount of  
21 tax imposed and paid under subsections (a) and (b) of  
22 Section 201 of this Act on grant amounts received by  
23 the taxpayer under the Nursing Home Grant Assistance  
24 Act during the taxpayer's taxable years 1992 and 1993;

25 (V) Beginning with tax years ending on or after  
26 December 31, 1995 and ending with tax years ending on  
27 or before December 31, 2004, an amount equal to the  
28 amount paid by a taxpayer who is a self-employed  
29 taxpayer, a partner of a partnership, or a shareholder  
30 in a Subchapter S corporation for health insurance or  
31 long-term care insurance for that taxpayer or that  
32 taxpayer's spouse or dependents, to the extent that the  
33 amount paid for that health insurance or long-term care  
34 insurance may be deducted under Section 213 of the

1 Internal Revenue Code of 1986, has not been deducted on  
2 the federal income tax return of the taxpayer, and does  
3 not exceed the taxable income attributable to that  
4 taxpayer's income, self-employment income, or  
5 Subchapter S corporation income; except that no  
6 deduction shall be allowed under this item (V) if the  
7 taxpayer is eligible to participate in any health  
8 insurance or long-term care insurance plan of an  
9 employer of the taxpayer or the taxpayer's spouse. The  
10 amount of the health insurance and long-term care  
11 insurance subtracted under this item (V) shall be  
12 determined by multiplying total health insurance and  
13 long-term care insurance premiums paid by the taxpayer  
14 times a number that represents the fractional  
15 percentage of eligible medical expenses under Section  
16 213 of the Internal Revenue Code of 1986 not actually  
17 deducted on the taxpayer's federal income tax return;

18 (W) For taxable years beginning on or after January  
19 1, 1998, all amounts included in the taxpayer's federal  
20 gross income in the taxable year from amounts converted  
21 from a regular IRA to a Roth IRA. This paragraph is  
22 exempt from the provisions of Section 250;

23 (X) For taxable year 1999 and thereafter, an amount  
24 equal to the amount of any (i) distributions, to the  
25 extent includible in gross income for federal income  
26 tax purposes, made to the taxpayer because of his or  
27 her status as a victim of persecution for racial or  
28 religious reasons by Nazi Germany or any other Axis  
29 regime or as an heir of the victim and (ii) items of  
30 income, to the extent includible in gross income for  
31 federal income tax purposes, attributable to, derived  
32 from or in any way related to assets stolen from,  
33 hidden from, or otherwise lost to a victim of  
34 persecution for racial or religious reasons by Nazi

1 Germany or any other Axis regime immediately prior to,  
2 during, and immediately after World War II, including,  
3 but not limited to, interest on the proceeds receivable  
4 as insurance under policies issued to a victim of  
5 persecution for racial or religious reasons by Nazi  
6 Germany or any other Axis regime by European insurance  
7 companies immediately prior to and during World War II;  
8 provided, however, this subtraction from federal  
9 adjusted gross income does not apply to assets acquired  
10 with such assets or with the proceeds from the sale of  
11 such assets; provided, further, this paragraph shall  
12 only apply to a taxpayer who was the first recipient of  
13 such assets after their recovery and who is a victim of  
14 persecution for racial or religious reasons by Nazi  
15 Germany or any other Axis regime or as an heir of the  
16 victim. The amount of and the eligibility for any  
17 public assistance, benefit, or similar entitlement is  
18 not affected by the inclusion of items (i) and (ii) of  
19 this paragraph in gross income for federal income tax  
20 purposes. This paragraph is exempt from the provisions  
21 of Section 250;

22 (Y) For taxable years beginning on or after January  
23 1, 2002 and ending on or before December 31, 2004,  
24 moneys contributed in the taxable year to a College  
25 Savings Pool account under Section 16.5 of the State  
26 Treasurer Act, except that amounts excluded from gross  
27 income under Section 529(c)(3)(C)(i) of the Internal  
28 Revenue Code shall not be considered moneys  
29 contributed under this subparagraph (Y). For taxable  
30 years beginning on or after January 1, 2005, a maximum  
31 of \$10,000 contributed in the taxable year to (i) a  
32 College Savings Pool account under Section 16.5 of the  
33 State Treasurer Act or (ii) the Illinois Prepaid  
34 Tuition Trust Fund, except that amounts excluded from

1 gross income under Section 529(c)(3)(C)(i) of the  
2 Internal Revenue Code shall not be considered moneys  
3 contributed under this subparagraph (Y). This  
4 subparagraph (Y) is exempt from the provisions of  
5 Section 250;

6 (Z) For taxable years 2001 and thereafter, for the  
7 taxable year in which the bonus depreciation deduction  
8 (30% of the adjusted basis of the qualified property)  
9 is taken on the taxpayer's federal income tax return  
10 under subsection (k) of Section 168 of the Internal  
11 Revenue Code and for each applicable taxable year  
12 thereafter, an amount equal to "x", where:

13 (1) "y" equals the amount of the depreciation  
14 deduction taken for the taxable year on the  
15 taxpayer's federal income tax return on property  
16 for which the bonus depreciation deduction (30% of  
17 the adjusted basis of the qualified property) was  
18 taken in any year under subsection (k) of Section  
19 168 of the Internal Revenue Code, but not including  
20 the bonus depreciation deduction; and

21 (2) "x" equals "y" multiplied by 30 and then  
22 divided by 70 (or "y" multiplied by 0.429).

23 The aggregate amount deducted under this  
24 subparagraph in all taxable years for any one piece of  
25 property may not exceed the amount of the bonus  
26 depreciation deduction (30% of the adjusted basis of  
27 the qualified property) taken on that property on the  
28 taxpayer's federal income tax return under subsection  
29 (k) of Section 168 of the Internal Revenue Code;

30 (AA) If the taxpayer reports a capital gain or loss  
31 on the taxpayer's federal income tax return for the  
32 taxable year based on a sale or transfer of property  
33 for which the taxpayer was required in any taxable year  
34 to make an addition modification under subparagraph

1 (D-15), then an amount equal to that addition  
2 modification.

3 The taxpayer is allowed to take the deduction under  
4 this subparagraph only once with respect to any one  
5 piece of property;

6 (BB) Any amount included in adjusted gross income,  
7 other than salary, received by a driver in a  
8 ridesharing arrangement using a motor vehicle;

9 (CC) The amount of (i) any interest income (net of  
10 the deductions allocable thereto) taken into account  
11 for the taxable year with respect to a transaction with  
12 a taxpayer that is required to make an addition  
13 modification with respect to such transaction under  
14 Section 203(a)(2)(D-17), 203(b)(2)(E-13),  
15 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
16 the amount of that addition modification, and (ii) any  
17 income from intangible property (net of the deductions  
18 allocable thereto) taken into account for the taxable  
19 year with respect to a transaction with a taxpayer that  
20 is required to make an addition modification with  
21 respect to such transaction under Section  
22 203(a)(2)(D-18), 203(b)(2)(E-14), 203(c)(2)(G-13), or  
23 203(d)(2)(D-8), but not to exceed the amount of that  
24 addition modification;

25 (DD) An amount equal to the interest income taken  
26 into account for the taxable year (net of the  
27 deductions allocable thereto) with respect to  
28 transactions with a foreign person who would be a  
29 member of the taxpayer's unitary business group but for  
30 the fact that the foreign person's business activity  
31 outside the United States is 80% or more of that  
32 person's total business activity, but not to exceed the  
33 addition modification required to be made for the same  
34 taxable year under Section 203(a)(2)(D-17) for

1 interest paid, accrued, or incurred, directly or  
2 indirectly, to the same foreign person; and

3 (EE) An amount equal to the income from intangible  
4 property taken into account for the taxable year (net  
5 of the deductions allocable thereto) with respect to  
6 transactions with a foreign person who would be a  
7 member of the taxpayer's unitary business group but for  
8 the fact that the foreign person's business activity  
9 outside the United States is 80% or more of that  
10 person's total business activity, but not to exceed the  
11 addition modification required to be made for the same  
12 taxable year under Section 203(a)(2)(D-18) for  
13 intangible expenses and costs paid, accrued, or  
14 incurred, directly or indirectly, to the same foreign  
15 person.

16 (b) Corporations.

17 (1) In general. In the case of a corporation, base  
18 income means an amount equal to the taxpayer's taxable  
19 income for the taxable year as modified by paragraph (2).

20 (2) Modifications. The taxable income referred to in  
21 paragraph (1) shall be modified by adding thereto the sum  
22 of the following amounts:

23 (A) An amount equal to all amounts paid or accrued  
24 to the taxpayer as interest and all distributions  
25 received from regulated investment companies during  
26 the taxable year to the extent excluded from gross  
27 income in the computation of taxable income;

28 (B) An amount equal to the amount of tax imposed by  
29 this Act to the extent deducted from gross income in  
30 the computation of taxable income for the taxable year;

31 (C) In the case of a regulated investment company,  
32 an amount equal to the excess of (i) the net long-term  
33 capital gain for the taxable year, over (ii) the amount

1 of the capital gain dividends designated as such in  
2 accordance with Section 852(b)(3)(C) of the Internal  
3 Revenue Code and any amount designated under Section  
4 852(b)(3)(D) of the Internal Revenue Code,  
5 attributable to the taxable year (this amendatory Act  
6 of 1995 (Public Act 89-89) is declarative of existing  
7 law and is not a new enactment);

8 (D) The amount of any net operating loss deduction  
9 taken in arriving at taxable income, other than a net  
10 operating loss carried forward from a taxable year  
11 ending prior to December 31, 1986;

12 (E) For taxable years in which a net operating loss  
13 carryback or carryforward from a taxable year ending  
14 prior to December 31, 1986 is an element of taxable  
15 income under paragraph (1) of subsection (e) or  
16 subparagraph (E) of paragraph (2) of subsection (e),  
17 the amount by which addition modifications other than  
18 those provided by this subparagraph (E) exceeded  
19 subtraction modifications in such earlier taxable  
20 year, with the following limitations applied in the  
21 order that they are listed:

22 (i) the addition modification relating to the  
23 net operating loss carried back or forward to the  
24 taxable year from any taxable year ending prior to  
25 December 31, 1986 shall be reduced by the amount of  
26 addition modification under this subparagraph (E)  
27 which related to that net operating loss and which  
28 was taken into account in calculating the base  
29 income of an earlier taxable year, and

30 (ii) the addition modification relating to the  
31 net operating loss carried back or forward to the  
32 taxable year from any taxable year ending prior to  
33 December 31, 1986 shall not exceed the amount of  
34 such carryback or carryforward;



1           For taxable years in which there is a net operating  
2           loss carryback or carryforward from more than one other  
3           taxable year ending prior to December 31, 1986, the  
4           addition modification provided in this subparagraph  
5           (E) shall be the sum of the amounts computed  
6           independently under the preceding provisions of this  
7           subparagraph (E) for each such taxable year;

8           (E-5) For taxable years ending after December 31,  
9           1997, an amount equal to any eligible remediation costs  
10          that the corporation deducted in computing adjusted  
11          gross income and for which the corporation claims a  
12          credit under subsection (l) of Section 201;

13          (E-10) For taxable years 2001 and thereafter, an  
14          amount equal to the bonus depreciation deduction (30%  
15          of the adjusted basis of the qualified property) taken  
16          on the taxpayer's federal income tax return for the  
17          taxable year under subsection (k) of Section 168 of the  
18          Internal Revenue Code; and

19          (E-11) If the taxpayer reports a capital gain or  
20          loss on the taxpayer's federal income tax return for  
21          the taxable year based on a sale or transfer of  
22          property for which the taxpayer was required in any  
23          taxable year to make an addition modification under  
24          subparagraph (E-10), then an amount equal to the  
25          aggregate amount of the deductions taken in all taxable  
26          years under subparagraph (T) with respect to that  
27          property.

28          The taxpayer is required to make the addition  
29          modification under this subparagraph only once with  
30          respect to any one piece of property;

31          (E-12) For taxable years ending on or after  
32          December 31, 2004, an amount equal to the amount  
33          otherwise allowed as a deduction in computing base  
34          income for interest paid, accrued, or incurred,

1 directly or indirectly, to a foreign person who would  
2 be a member of the same unitary business group but for  
3 the fact the foreign person's business activity  
4 outside the United States is 80% or more of the foreign  
5 person's total business activity. The addition  
6 modification required by this subparagraph shall be  
7 reduced to the extent that dividends were included in  
8 base income of the unitary group for the same taxable  
9 year and received by the taxpayer or by a member of the  
10 taxpayer's unitary business group (including amounts  
11 included in gross income pursuant to Sections 951  
12 through 964 of the Internal Revenue Code and amounts  
13 included in gross income under Section 78 of the  
14 Internal Revenue Code) with respect to the stock of the  
15 same person to whom the interest was paid, accrued, or  
16 incurred.

17 This paragraph shall not apply to the following:

18 (i) an item of interest paid, accrued, or  
19 incurred, directly or indirectly, to a foreign  
20 person who is subject in a foreign country or  
21 state, other than a state which requires mandatory  
22 unitary reporting, to a tax on or measured by net  
23 income with respect to such interest; or

24 (ii) an item of interest paid, accrued, or  
25 incurred, directly or indirectly, to a foreign  
26 person if the taxpayer can establish, based on a  
27 preponderance of the evidence, both of the  
28 following:

29 (a) the foreign person, during the same  
30 taxable year, paid, accrued, or incurred, the  
31 interest to a person that is not a related  
32 member, and

33 (b) the transaction giving rise to the  
34 interest expense between the taxpayer and the

1 foreign person did not have as a principal  
2 purpose the avoidance of Illinois income tax,  
3 and is paid pursuant to a contract or agreement  
4 that reflects an arm's-length interest rate  
5 and terms; or

6 (iii) the taxpayer can establish, based on  
7 clear and convincing evidence, that the interest  
8 paid, accrued, or incurred relates to a contract or  
9 agreement entered into at arm's-length rates and  
10 terms and the principal purpose for the payment is  
11 not federal or Illinois tax avoidance; or

12 (iv) an item of interest paid, accrued, or  
13 incurred, directly or indirectly, to a foreign  
14 person if the taxpayer establishes by clear and  
15 convincing evidence that the adjustments are  
16 unreasonable; or if the taxpayer and the Director  
17 agree in writing to the application or use of an  
18 alternative method of apportionment under Section  
19 304(f).

20 Nothing in this subsection shall preclude the  
21 Director from making any other adjustment  
22 otherwise allowed under Section 404 of this Act for  
23 any tax year beginning after the effective date of  
24 this amendment provided such adjustment is made  
25 pursuant to regulation adopted by the Department  
26 and such regulations provide methods and standards  
27 by which the Department will utilize its authority  
28 under Section 404 of this Act;

29 (E-13) For taxable years ending on or after  
30 December 31, 2004, an amount equal to the amount of  
31 intangible expenses and costs otherwise allowed as a  
32 deduction in computing base income, and that were paid,  
33 accrued, or incurred, directly or indirectly, to a  
34 foreign person who would be a member of the same

1 unitary business group but for the fact that the  
2 foreign person's business activity outside the United  
3 States is 80% or more of that person's total business  
4 activity. The addition modification required by this  
5 subparagraph shall be reduced to the extent that  
6 dividends were included in base income of the unitary  
7 group for the same taxable year and received by the  
8 taxpayer or by a member of the taxpayer's unitary  
9 business group (including amounts included in gross  
10 income pursuant to Sections 951 through 964 of the  
11 Internal Revenue Code and amounts included in gross  
12 income under Section 78 of the Internal Revenue Code)  
13 with respect to the stock of the same person to whom  
14 the intangible expenses and costs were directly or  
15 indirectly paid, incurred, or accrued. The preceding  
16 sentence shall not apply to the extent that the same  
17 dividends caused a reduction to the addition  
18 modification required under Section 203(b)(2)(E-12) of  
19 this Act. As used in this subparagraph, the term  
20 "intangible expenses and costs" includes (1) expenses,  
21 losses, and costs for, or related to, the direct or  
22 indirect acquisition, use, maintenance or management,  
23 ownership, sale, exchange, or any other disposition of  
24 intangible property; (2) losses incurred, directly or  
25 indirectly, from factoring transactions or discounting  
26 transactions; (3) royalty, patent, technical, and  
27 copyright fees; (4) licensing fees; and (5) other  
28 similar expenses and costs. For purposes of this  
29 subparagraph, "intangible property" includes patents,  
30 patent applications, trade names, trademarks, service  
31 marks, copyrights, mask works, trade secrets, and  
32 similar types of intangible assets.

33 This paragraph shall not apply to the following:

34 (i) any item of intangible expenses or costs

1           paid, accrued, or incurred, directly or  
2           indirectly, from a transaction with a foreign  
3           person who is subject in a foreign country or  
4           state, other than a state which requires mandatory  
5           unitary reporting, to a tax on or measured by net  
6           income with respect to such item; or

7           (ii) any item of intangible expense or cost  
8           paid, accrued, or incurred, directly or  
9           indirectly, if the taxpayer can establish, based  
10          on a preponderance of the evidence, both of the  
11          following:

12                 (a) the foreign person during the same  
13                 taxable year paid, accrued, or incurred, the  
14                 intangible expense or cost to a person that is  
15                 not a related member, and

16                 (b) the transaction giving rise to the  
17                 intangible expense or cost between the  
18                 taxpayer and the foreign person did not have as  
19                 a principal purpose the avoidance of Illinois  
20                 income tax, and is paid pursuant to a contract  
21                 or agreement that reflects arm's-length terms;  
22                 or

23           (iii) any item of intangible expense or cost  
24           paid, accrued, or incurred, directly or  
25           indirectly, from a transaction with a foreign  
26           person if the taxpayer establishes by clear and  
27           convincing evidence, that the adjustments are  
28           unreasonable; or if the taxpayer and the Director  
29           agree in writing to the application or use of an  
30           alternative method of apportionment under Section  
31           304(f);

32           Nothing in this subsection shall preclude the  
33           Director from making any other adjustment  
34           otherwise allowed under Section 404 of this Act for

1           any tax year beginning after the effective date of  
2           this amendment provided such adjustment is made  
3           pursuant to regulation adopted by the Department  
4           and such regulations provide methods and standards  
5           by which the Department will utilize its authority  
6           under Section 404 of this Act;

7           and by deducting from the total so obtained the sum of the  
8           following amounts:

9           (F) An amount equal to the amount of any tax  
10          imposed by this Act which was refunded to the taxpayer  
11          and included in such total for the taxable year;

12          (G) An amount equal to any amount included in such  
13          total under Section 78 of the Internal Revenue Code;

14          (H) In the case of a regulated investment company,  
15          an amount equal to the amount of exempt interest  
16          dividends as defined in subsection (b) (5) of Section  
17          852 of the Internal Revenue Code, paid to shareholders  
18          for the taxable year;

19          (I) With the exception of any amounts subtracted  
20          under subparagraph (J), an amount equal to the sum of  
21          all amounts disallowed as deductions by (i) Sections  
22          171(a) (2), and 265(a) (2) and amounts disallowed as  
23          interest expense by Section 291(a) (3) of the Internal  
24          Revenue Code, as now or hereafter amended, and all  
25          amounts of expenses allocable to interest and  
26          disallowed as deductions by Section 265(a) (1) of the  
27          Internal Revenue Code, as now or hereafter amended; and  
28          (ii) for taxable years ending on or after August 13,  
29          1999, Sections 171(a) (2), 265, 280C, 291(a) (3), and  
30          832(b) (5) (B) (i) of the Internal Revenue Code; the  
31          provisions of this subparagraph are exempt from the  
32          provisions of Section 250;

33          (J) An amount equal to all amounts included in such  
34          total which are exempt from taxation by this State

1           either by reason of its statutes or Constitution or by  
2           reason of the Constitution, treaties or statutes of the  
3           United States; provided that, in the case of any  
4           statute of this State that exempts income derived from  
5           bonds or other obligations from the tax imposed under  
6           this Act, the amount exempted shall be the interest net  
7           of bond premium amortization;

8           (K) An amount equal to those dividends included in  
9           such total which were paid by a corporation which  
10          conducts business operations in an Enterprise Zone or  
11          zones created under the Illinois Enterprise Zone Act or  
12          a River Edge Redevelopment Zone or zones created under  
13          the River Edge Redevelopment Zone Act and conducts  
14          substantially all of its operations in an Enterprise  
15          Zone or zones or a River Edge Redevelopment Zone or  
16          zones. This subparagraph (K) is exempt from the  
17          provisions of Section 250;

18          (L) An amount equal to those dividends included in  
19          such total that were paid by a corporation that  
20          conducts business operations in a federally designated  
21          Foreign Trade Zone or Sub-Zone and that is designated a  
22          High Impact Business located in Illinois; provided  
23          that dividends eligible for the deduction provided in  
24          subparagraph (K) of paragraph 2 of this subsection  
25          shall not be eligible for the deduction provided under  
26          this subparagraph (L);

27          (M) For any taxpayer that is a financial  
28          organization within the meaning of Section 304(c) of  
29          this Act, an amount included in such total as interest  
30          income from a loan or loans made by such taxpayer to a  
31          borrower, to the extent that such a loan is secured by  
32          property which is eligible for the Enterprise Zone  
33          Investment Credit or the River Edge Redevelopment Zone  
34          Investment Credit. To determine the portion of a loan

1 or loans that is secured by property eligible for a  
2 Section 201(f) investment credit to the borrower, the  
3 entire principal amount of the loan or loans between  
4 the taxpayer and the borrower should be divided into  
5 the basis of the Section 201(f) investment credit  
6 property which secures the loan or loans, using for  
7 this purpose the original basis of such property on the  
8 date that it was placed in service in the Enterprise  
9 Zone or the River Edge Redevelopment Zone. The  
10 subtraction modification available to taxpayer in any  
11 year under this subsection shall be that portion of the  
12 total interest paid by the borrower with respect to  
13 such loan attributable to the eligible property as  
14 calculated under the previous sentence. This  
15 subparagraph (M) is exempt from the provisions of  
16 Section 250;

17 (M-1) For any taxpayer that is a financial  
18 organization within the meaning of Section 304(c) of  
19 this Act, an amount included in such total as interest  
20 income from a loan or loans made by such taxpayer to a  
21 borrower, to the extent that such a loan is secured by  
22 property which is eligible for the High Impact Business  
23 Investment Credit. To determine the portion of a loan  
24 or loans that is secured by property eligible for a  
25 Section 201(h) investment credit to the borrower, the  
26 entire principal amount of the loan or loans between  
27 the taxpayer and the borrower should be divided into  
28 the basis of the Section 201(h) investment credit  
29 property which secures the loan or loans, using for  
30 this purpose the original basis of such property on the  
31 date that it was placed in service in a federally  
32 designated Foreign Trade Zone or Sub-Zone located in  
33 Illinois. No taxpayer that is eligible for the  
34 deduction provided in subparagraph (M) of paragraph



1 (2) of this subsection shall be eligible for the  
2 deduction provided under this subparagraph (M-1). The  
3 subtraction modification available to taxpayers in any  
4 year under this subsection shall be that portion of the  
5 total interest paid by the borrower with respect to  
6 such loan attributable to the eligible property as  
7 calculated under the previous sentence;

8 (N) Two times any contribution made during the  
9 taxable year to a designated zone organization to the  
10 extent that the contribution (i) qualifies as a  
11 charitable contribution under subsection (c) of  
12 Section 170 of the Internal Revenue Code and (ii) must,  
13 by its terms, be used for a project approved by the  
14 Department of Commerce and Economic Opportunity under  
15 Section 11 of the Illinois Enterprise Zone Act or under  
16 Section 10-10 of the Illinois River Edge Redevelopment  
17 Zone Act. This subparagraph (N) is exempt from the  
18 provisions of Section 250;

19 (O) An amount equal to: (i) 85% for taxable years  
20 ending on or before December 31, 1992, or, a percentage  
21 equal to the percentage allowable under Section  
22 243(a)(1) of the Internal Revenue Code of 1986 for  
23 taxable years ending after December 31, 1992, of the  
24 amount by which dividends included in taxable income  
25 and received from a corporation that is not created or  
26 organized under the laws of the United States or any  
27 state or political subdivision thereof, including, for  
28 taxable years ending on or after December 31, 1988,  
29 dividends received or deemed received or paid or deemed  
30 paid under Sections 951 through 964 of the Internal  
31 Revenue Code, exceed the amount of the modification  
32 provided under subparagraph (G) of paragraph (2) of  
33 this subsection (b) which is related to such dividends;  
34 plus (ii) 100% of the amount by which dividends,

1 included in taxable income and received, including,  
2 for taxable years ending on or after December 31, 1988,  
3 dividends received or deemed received or paid or deemed  
4 paid under Sections 951 through 964 of the Internal  
5 Revenue Code, from any such corporation specified in  
6 clause (i) that would but for the provisions of Section  
7 1504 (b) (3) of the Internal Revenue Code be treated as  
8 a member of the affiliated group which includes the  
9 dividend recipient, exceed the amount of the  
10 modification provided under subparagraph (G) of  
11 paragraph (2) of this subsection (b) which is related  
12 to such dividends;

13 (P) An amount equal to any contribution made to a  
14 job training project established pursuant to the Tax  
15 Increment Allocation Redevelopment Act;

16 (Q) An amount equal to the amount of the deduction  
17 used to compute the federal income tax credit for  
18 restoration of substantial amounts held under claim of  
19 right for the taxable year pursuant to Section 1341 of  
20 the Internal Revenue Code of 1986;

21 (R) In the case of an attorney-in-fact with respect  
22 to whom an interinsurer or a reciprocal insurer has  
23 made the election under Section 835 of the Internal  
24 Revenue Code, 26 U.S.C. 835, an amount equal to the  
25 excess, if any, of the amounts paid or incurred by that  
26 interinsurer or reciprocal insurer in the taxable year  
27 to the attorney-in-fact over the deduction allowed to  
28 that interinsurer or reciprocal insurer with respect  
29 to the attorney-in-fact under Section 835(b) of the  
30 Internal Revenue Code for the taxable year;

31 (S) For taxable years ending on or after December  
32 31, 1997, in the case of a Subchapter S corporation, an  
33 amount equal to all amounts of income allocable to a  
34 shareholder subject to the Personal Property Tax

1 Replacement Income Tax imposed by subsections (c) and  
2 (d) of Section 201 of this Act, including amounts  
3 allocable to organizations exempt from federal income  
4 tax by reason of Section 501(a) of the Internal Revenue  
5 Code. This subparagraph (S) is exempt from the  
6 provisions of Section 250;

7 (T) For taxable years 2001 and thereafter, for the  
8 taxable year in which the bonus depreciation deduction  
9 (30% of the adjusted basis of the qualified property)  
10 is taken on the taxpayer's federal income tax return  
11 under subsection (k) of Section 168 of the Internal  
12 Revenue Code and for each applicable taxable year  
13 thereafter, an amount equal to "x", where:

14 (1) "y" equals the amount of the depreciation  
15 deduction taken for the taxable year on the  
16 taxpayer's federal income tax return on property  
17 for which the bonus depreciation deduction (30% of  
18 the adjusted basis of the qualified property) was  
19 taken in any year under subsection (k) of Section  
20 168 of the Internal Revenue Code, but not including  
21 the bonus depreciation deduction; and

22 (2) "x" equals "y" multiplied by 30 and then  
23 divided by 70 (or "y" multiplied by 0.429).

24 The aggregate amount deducted under this  
25 subparagraph in all taxable years for any one piece of  
26 property may not exceed the amount of the bonus  
27 depreciation deduction (30% of the adjusted basis of  
28 the qualified property) taken on that property on the  
29 taxpayer's federal income tax return under subsection  
30 (k) of Section 168 of the Internal Revenue Code;

31 (U) If the taxpayer reports a capital gain or loss  
32 on the taxpayer's federal income tax return for the  
33 taxable year based on a sale or transfer of property  
34 for which the taxpayer was required in any taxable year

1 to make an addition modification under subparagraph  
2 (E-10), then an amount equal to that addition  
3 modification.

4 The taxpayer is allowed to take the deduction under  
5 this subparagraph only once with respect to any one  
6 piece of property;

7 (V) The amount of: (i) any interest income (net of  
8 the deductions allocable thereto) taken into account  
9 for the taxable year with respect to a transaction with  
10 a taxpayer that is required to make an addition  
11 modification with respect to such transaction under  
12 Section 203(a)(2)(D-17), 203(b)(2)(E-12),  
13 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
14 the amount of such addition modification and (ii) any  
15 income from intangible property (net of the deductions  
16 allocable thereto) taken into account for the taxable  
17 year with respect to a transaction with a taxpayer that  
18 is required to make an addition modification with  
19 respect to such transaction under Section  
20 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
21 203(d)(2)(D-8), but not to exceed the amount of such  
22 addition modification;

23 (W) An amount equal to the interest income taken  
24 into account for the taxable year (net of the  
25 deductions allocable thereto) with respect to  
26 transactions with a foreign person who would be a  
27 member of the taxpayer's unitary business group but for  
28 the fact that the foreign person's business activity  
29 outside the United States is 80% or more of that  
30 person's total business activity, but not to exceed the  
31 addition modification required to be made for the same  
32 taxable year under Section 203(b)(2)(E-12) for  
33 interest paid, accrued, or incurred, directly or  
34 indirectly, to the same foreign person; and

1           (X) An amount equal to the income from intangible  
2           property taken into account for the taxable year (net  
3           of the deductions allocable thereto) with respect to  
4           transactions with a foreign person who would be a  
5           member of the taxpayer's unitary business group but for  
6           the fact that the foreign person's business activity  
7           outside the United States is 80% or more of that  
8           person's total business activity, but not to exceed the  
9           addition modification required to be made for the same  
10          taxable year under Section 203(b)(2)(E-13) for  
11          intangible expenses and costs paid, accrued, or  
12          incurred, directly or indirectly, to the same foreign  
13          person.

14          (3) Special rule. For purposes of paragraph (2) (A),  
15          "gross income" in the case of a life insurance company, for  
16          tax years ending on and after December 31, 1994, shall mean  
17          the gross investment income for the taxable year.

18          (c) Trusts and estates.

19          (1) In general. In the case of a trust or estate, base  
20          income means an amount equal to the taxpayer's taxable  
21          income for the taxable year as modified by paragraph (2).

22          (2) Modifications. Subject to the provisions of  
23          paragraph (3), the taxable income referred to in paragraph  
24          (1) shall be modified by adding thereto the sum of the  
25          following amounts:

26                  (A) An amount equal to all amounts paid or accrued  
27                  to the taxpayer as interest or dividends during the  
28                  taxable year to the extent excluded from gross income  
29                  in the computation of taxable income;

30                  (B) In the case of (i) an estate, \$600; (ii) a  
31                  trust which, under its governing instrument, is  
32                  required to distribute all of its income currently,  
33                  \$300; and (iii) any other trust, \$100, but in each such

1 case, only to the extent such amount was deducted in  
2 the computation of taxable income;

3 (C) An amount equal to the amount of tax imposed by  
4 this Act to the extent deducted from gross income in  
5 the computation of taxable income for the taxable year;

6 (D) The amount of any net operating loss deduction  
7 taken in arriving at taxable income, other than a net  
8 operating loss carried forward from a taxable year  
9 ending prior to December 31, 1986;

10 (E) For taxable years in which a net operating loss  
11 carryback or carryforward from a taxable year ending  
12 prior to December 31, 1986 is an element of taxable  
13 income under paragraph (1) of subsection (e) or  
14 subparagraph (E) of paragraph (2) of subsection (e),  
15 the amount by which addition modifications other than  
16 those provided by this subparagraph (E) exceeded  
17 subtraction modifications in such taxable year, with  
18 the following limitations applied in the order that  
19 they are listed:

20 (i) the addition modification relating to the  
21 net operating loss carried back or forward to the  
22 taxable year from any taxable year ending prior to  
23 December 31, 1986 shall be reduced by the amount of  
24 addition modification under this subparagraph (E)  
25 which related to that net operating loss and which  
26 was taken into account in calculating the base  
27 income of an earlier taxable year, and

28 (ii) the addition modification relating to the  
29 net operating loss carried back or forward to the  
30 taxable year from any taxable year ending prior to  
31 December 31, 1986 shall not exceed the amount of  
32 such carryback or carryforward;

33 For taxable years in which there is a net operating  
34 loss carryback or carryforward from more than one other

1 taxable year ending prior to December 31, 1986, the  
2 addition modification provided in this subparagraph  
3 (E) shall be the sum of the amounts computed  
4 independently under the preceding provisions of this  
5 subparagraph (E) for each such taxable year;

6 (F) For taxable years ending on or after January 1,  
7 1989, an amount equal to the tax deducted pursuant to  
8 Section 164 of the Internal Revenue Code if the trust  
9 or estate is claiming the same tax for purposes of the  
10 Illinois foreign tax credit under Section 601 of this  
11 Act;

12 (G) An amount equal to the amount of the capital  
13 gain deduction allowable under the Internal Revenue  
14 Code, to the extent deducted from gross income in the  
15 computation of taxable income;

16 (G-5) For taxable years ending after December 31,  
17 1997, an amount equal to any eligible remediation costs  
18 that the trust or estate deducted in computing adjusted  
19 gross income and for which the trust or estate claims a  
20 credit under subsection (l) of Section 201;

21 (G-10) For taxable years 2001 and thereafter, an  
22 amount equal to the bonus depreciation deduction (30%  
23 of the adjusted basis of the qualified property) taken  
24 on the taxpayer's federal income tax return for the  
25 taxable year under subsection (k) of Section 168 of the  
26 Internal Revenue Code; and

27 (G-11) If the taxpayer reports a capital gain or  
28 loss on the taxpayer's federal income tax return for  
29 the taxable year based on a sale or transfer of  
30 property for which the taxpayer was required in any  
31 taxable year to make an addition modification under  
32 subparagraph (G-10), then an amount equal to the  
33 aggregate amount of the deductions taken in all taxable  
34 years under subparagraph (R) with respect to that

1 property.

2 The taxpayer is required to make the addition  
3 modification under this subparagraph only once with  
4 respect to any one piece of property;

5 (G-12) For taxable years ending on or after  
6 December 31, 2004, an amount equal to the amount  
7 otherwise allowed as a deduction in computing base  
8 income for interest paid, accrued, or incurred,  
9 directly or indirectly, to a foreign person who would  
10 be a member of the same unitary business group but for  
11 the fact that the foreign person's business activity  
12 outside the United States is 80% or more of the foreign  
13 person's total business activity. The addition  
14 modification required by this subparagraph shall be  
15 reduced to the extent that dividends were included in  
16 base income of the unitary group for the same taxable  
17 year and received by the taxpayer or by a member of the  
18 taxpayer's unitary business group (including amounts  
19 included in gross income pursuant to Sections 951  
20 through 964 of the Internal Revenue Code and amounts  
21 included in gross income under Section 78 of the  
22 Internal Revenue Code) with respect to the stock of the  
23 same person to whom the interest was paid, accrued, or  
24 incurred.

25 This paragraph shall not apply to the following:

26 (i) an item of interest paid, accrued, or  
27 incurred, directly or indirectly, to a foreign  
28 person who is subject in a foreign country or  
29 state, other than a state which requires mandatory  
30 unitary reporting, to a tax on or measured by net  
31 income with respect to such interest; or

32 (ii) an item of interest paid, accrued, or  
33 incurred, directly or indirectly, to a foreign  
34 person if the taxpayer can establish, based on a



1           preponderance of the evidence, both of the  
2           following:

3                   (a) the foreign person, during the same  
4                   taxable year, paid, accrued, or incurred, the  
5                   interest to a person that is not a related  
6                   member, and

7                   (b) the transaction giving rise to the  
8                   interest expense between the taxpayer and the  
9                   foreign person did not have as a principal  
10                   purpose the avoidance of Illinois income tax,  
11                   and is paid pursuant to a contract or agreement  
12                   that reflects an arm's-length interest rate  
13                   and terms; or

14                   (iii) the taxpayer can establish, based on  
15                   clear and convincing evidence, that the interest  
16                   paid, accrued, or incurred relates to a contract or  
17                   agreement entered into at arm's-length rates and  
18                   terms and the principal purpose for the payment is  
19                   not federal or Illinois tax avoidance; or

20                   (iv) an item of interest paid, accrued, or  
21                   incurred, directly or indirectly, to a foreign  
22                   person if the taxpayer establishes by clear and  
23                   convincing evidence that the adjustments are  
24                   unreasonable; or if the taxpayer and the Director  
25                   agree in writing to the application or use of an  
26                   alternative method of apportionment under Section  
27                   304(f).

28                   Nothing in this subsection shall preclude the  
29                   Director from making any other adjustment  
30                   otherwise allowed under Section 404 of this Act for  
31                   any tax year beginning after the effective date of  
32                   this amendment provided such adjustment is made  
33                   pursuant to regulation adopted by the Department  
34                   and such regulations provide methods and standards

1           by which the Department will utilize its authority  
2           under Section 404 of this Act;

3           (G-13) For taxable years ending on or after  
4           December 31, 2004, an amount equal to the amount of  
5           intangible expenses and costs otherwise allowed as a  
6           deduction in computing base income, and that were paid,  
7           accrued, or incurred, directly or indirectly, to a  
8           foreign person who would be a member of the same  
9           unitary business group but for the fact that the  
10          foreign person's business activity outside the United  
11          States is 80% or more of that person's total business  
12          activity. The addition modification required by this  
13          subparagraph shall be reduced to the extent that  
14          dividends were included in base income of the unitary  
15          group for the same taxable year and received by the  
16          taxpayer or by a member of the taxpayer's unitary  
17          business group (including amounts included in gross  
18          income pursuant to Sections 951 through 964 of the  
19          Internal Revenue Code and amounts included in gross  
20          income under Section 78 of the Internal Revenue Code)  
21          with respect to the stock of the same person to whom  
22          the intangible expenses and costs were directly or  
23          indirectly paid, incurred, or accrued. The preceding  
24          sentence shall not apply to the extent that the same  
25          dividends caused a reduction to the addition  
26          modification required under Section 203(c)(2)(G-12) of  
27          this Act. As used in this subparagraph, the term  
28          "intangible expenses and costs" includes: (1)  
29          expenses, losses, and costs for or related to the  
30          direct or indirect acquisition, use, maintenance or  
31          management, ownership, sale, exchange, or any other  
32          disposition of intangible property; (2) losses  
33          incurred, directly or indirectly, from factoring  
34          transactions or discounting transactions; (3) royalty,

1 patent, technical, and copyright fees; (4) licensing  
2 fees; and (5) other similar expenses and costs. For  
3 purposes of this subparagraph, "intangible property"  
4 includes patents, patent applications, trade names,  
5 trademarks, service marks, copyrights, mask works,  
6 trade secrets, and similar types of intangible assets.

7 This paragraph shall not apply to the following:

8 (i) any item of intangible expenses or costs  
9 paid, accrued, or incurred, directly or  
10 indirectly, from a transaction with a foreign  
11 person who is subject in a foreign country or  
12 state, other than a state which requires mandatory  
13 unitary reporting, to a tax on or measured by net  
14 income with respect to such item; or

15 (ii) any item of intangible expense or cost  
16 paid, accrued, or incurred, directly or  
17 indirectly, if the taxpayer can establish, based  
18 on a preponderance of the evidence, both of the  
19 following:

20 (a) the foreign person during the same  
21 taxable year paid, accrued, or incurred, the  
22 intangible expense or cost to a person that is  
23 not a related member, and

24 (b) the transaction giving rise to the  
25 intangible expense or cost between the  
26 taxpayer and the foreign person did not have as  
27 a principal purpose the avoidance of Illinois  
28 income tax, and is paid pursuant to a contract  
29 or agreement that reflects arm's-length terms;  
30 or

31 (iii) any item of intangible expense or cost  
32 paid, accrued, or incurred, directly or  
33 indirectly, from a transaction with a foreign  
34 person if the taxpayer establishes by clear and

1           convincing evidence, that the adjustments are  
2           unreasonable; or if the taxpayer and the Director  
3           agree in writing to the application or use of an  
4           alternative method of apportionment under Section  
5           304(f);

6           Nothing in this subsection shall preclude the  
7           Director from making any other adjustment  
8           otherwise allowed under Section 404 of this Act for  
9           any tax year beginning after the effective date of  
10          this amendment provided such adjustment is made  
11          pursuant to regulation adopted by the Department  
12          and such regulations provide methods and standards  
13          by which the Department will utilize its authority  
14          under Section 404 of this Act;

15          and by deducting from the total so obtained the sum of the  
16          following amounts:

17                 (H) An amount equal to all amounts included in such  
18                 total pursuant to the provisions of Sections 402(a),  
19                 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the  
20                 Internal Revenue Code or included in such total as  
21                 distributions under the provisions of any retirement  
22                 or disability plan for employees of any governmental  
23                 agency or unit, or retirement payments to retired  
24                 partners, which payments are excluded in computing net  
25                 earnings from self employment by Section 1402 of the  
26                 Internal Revenue Code and regulations adopted pursuant  
27                 thereto;

28                 (I) The valuation limitation amount;

29                 (J) An amount equal to the amount of any tax  
30                 imposed by this Act which was refunded to the taxpayer  
31                 and included in such total for the taxable year;

32                 (K) An amount equal to all amounts included in  
33                 taxable income as modified by subparagraphs (A), (B),  
34                 (C), (D), (E), (F) and (G) which are exempt from

1           taxation by this State either by reason of its statutes  
2           or Constitution or by reason of the Constitution,  
3           treaties or statutes of the United States; provided  
4           that, in the case of any statute of this State that  
5           exempts income derived from bonds or other obligations  
6           from the tax imposed under this Act, the amount  
7           exempted shall be the interest net of bond premium  
8           amortization;

9           (L) With the exception of any amounts subtracted  
10          under subparagraph (K), an amount equal to the sum of  
11          all amounts disallowed as deductions by (i) Sections  
12          171(a) (2) and 265(a) (2) of the Internal Revenue Code,  
13          as now or hereafter amended, and all amounts of  
14          expenses allocable to interest and disallowed as  
15          deductions by Section 265(1) of the Internal Revenue  
16          Code of 1954, as now or hereafter amended; and (ii) for  
17          taxable years ending on or after August 13, 1999,  
18          Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of  
19          the Internal Revenue Code; the provisions of this  
20          subparagraph are exempt from the provisions of Section  
21          250;

22          (M) An amount equal to those dividends included in  
23          such total which were paid by a corporation which  
24          conducts business operations in an Enterprise Zone or  
25          zones created under the Illinois Enterprise Zone Act  
26          or a River Edge Redevelopment Zone or zones created  
27          under the River Edge Redevelopment Zone Act and  
28          conducts substantially all of its operations in an  
29          Enterprise Zone or Zones or a River Edge Redevelopment  
30          Zone or zones. This subparagraph (M) is exempt from the  
31          provisions of Section 250;

32          (N) An amount equal to any contribution made to a  
33          job training project established pursuant to the Tax  
34          Increment Allocation Redevelopment Act;

1           (O) An amount equal to those dividends included in  
2 such total that were paid by a corporation that  
3 conducts business operations in a federally designated  
4 Foreign Trade Zone or Sub-Zone and that is designated a  
5 High Impact Business located in Illinois; provided  
6 that dividends eligible for the deduction provided in  
7 subparagraph (M) of paragraph (2) of this subsection  
8 shall not be eligible for the deduction provided under  
9 this subparagraph (O);

10           (P) An amount equal to the amount of the deduction  
11 used to compute the federal income tax credit for  
12 restoration of substantial amounts held under claim of  
13 right for the taxable year pursuant to Section 1341 of  
14 the Internal Revenue Code of 1986;

15           (Q) For taxable year 1999 and thereafter, an amount  
16 equal to the amount of any (i) distributions, to the  
17 extent includible in gross income for federal income  
18 tax purposes, made to the taxpayer because of his or  
19 her status as a victim of persecution for racial or  
20 religious reasons by Nazi Germany or any other Axis  
21 regime or as an heir of the victim and (ii) items of  
22 income, to the extent includible in gross income for  
23 federal income tax purposes, attributable to, derived  
24 from or in any way related to assets stolen from,  
25 hidden from, or otherwise lost to a victim of  
26 persecution for racial or religious reasons by Nazi  
27 Germany or any other Axis regime immediately prior to,  
28 during, and immediately after World War II, including,  
29 but not limited to, interest on the proceeds receivable  
30 as insurance under policies issued to a victim of  
31 persecution for racial or religious reasons by Nazi  
32 Germany or any other Axis regime by European insurance  
33 companies immediately prior to and during World War II;  
34 provided, however, this subtraction from federal

1 adjusted gross income does not apply to assets acquired  
2 with such assets or with the proceeds from the sale of  
3 such assets; provided, further, this paragraph shall  
4 only apply to a taxpayer who was the first recipient of  
5 such assets after their recovery and who is a victim of  
6 persecution for racial or religious reasons by Nazi  
7 Germany or any other Axis regime or as an heir of the  
8 victim. The amount of and the eligibility for any  
9 public assistance, benefit, or similar entitlement is  
10 not affected by the inclusion of items (i) and (ii) of  
11 this paragraph in gross income for federal income tax  
12 purposes. This paragraph is exempt from the provisions  
13 of Section 250;

14 (R) For taxable years 2001 and thereafter, for the  
15 taxable year in which the bonus depreciation deduction  
16 (30% of the adjusted basis of the qualified property)  
17 is taken on the taxpayer's federal income tax return  
18 under subsection (k) of Section 168 of the Internal  
19 Revenue Code and for each applicable taxable year  
20 thereafter, an amount equal to "x", where:

21 (1) "y" equals the amount of the depreciation  
22 deduction taken for the taxable year on the  
23 taxpayer's federal income tax return on property  
24 for which the bonus depreciation deduction (30% of  
25 the adjusted basis of the qualified property) was  
26 taken in any year under subsection (k) of Section  
27 168 of the Internal Revenue Code, but not including  
28 the bonus depreciation deduction; and

29 (2) "x" equals "y" multiplied by 30 and then  
30 divided by 70 (or "y" multiplied by 0.429).

31 The aggregate amount deducted under this  
32 subparagraph in all taxable years for any one piece of  
33 property may not exceed the amount of the bonus  
34 depreciation deduction (30% of the adjusted basis of

1 the qualified property) taken on that property on the  
2 taxpayer's federal income tax return under subsection  
3 (k) of Section 168 of the Internal Revenue Code;

4 (S) If the taxpayer reports a capital gain or loss  
5 on the taxpayer's federal income tax return for the  
6 taxable year based on a sale or transfer of property  
7 for which the taxpayer was required in any taxable year  
8 to make an addition modification under subparagraph  
9 (G-10), then an amount equal to that addition  
10 modification.

11 The taxpayer is allowed to take the deduction under  
12 this subparagraph only once with respect to any one  
13 piece of property;

14 (T) The amount of (i) any interest income (net of  
15 the deductions allocable thereto) taken into account  
16 for the taxable year with respect to a transaction with  
17 a taxpayer that is required to make an addition  
18 modification with respect to such transaction under  
19 Section 203(a)(2)(D-17), 203(b)(2)(E-12),  
20 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
21 the amount of such addition modification and (ii) any  
22 income from intangible property (net of the deductions  
23 allocable thereto) taken into account for the taxable  
24 year with respect to a transaction with a taxpayer that  
25 is required to make an addition modification with  
26 respect to such transaction under Section  
27 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
28 203(d)(2)(D-8), but not to exceed the amount of such  
29 addition modification;

30 (U) An amount equal to the interest income taken  
31 into account for the taxable year (net of the  
32 deductions allocable thereto) with respect to  
33 transactions with a foreign person who would be a  
34 member of the taxpayer's unitary business group but for



1 the fact the foreign person's business activity  
2 outside the United States is 80% or more of that  
3 person's total business activity, but not to exceed the  
4 addition modification required to be made for the same  
5 taxable year under Section 203(c)(2)(G-12) for  
6 interest paid, accrued, or incurred, directly or  
7 indirectly, to the same foreign person; and

8 (V) An amount equal to the income from intangible  
9 property taken into account for the taxable year (net  
10 of the deductions allocable thereto) with respect to  
11 transactions with a foreign person who would be a  
12 member of the taxpayer's unitary business group but for  
13 the fact that the foreign person's business activity  
14 outside the United States is 80% or more of that  
15 person's total business activity, but not to exceed the  
16 addition modification required to be made for the same  
17 taxable year under Section 203(c)(2)(G-13) for  
18 intangible expenses and costs paid, accrued, or  
19 incurred, directly or indirectly, to the same foreign  
20 person.

21 (3) Limitation. The amount of any modification  
22 otherwise required under this subsection shall, under  
23 regulations prescribed by the Department, be adjusted by  
24 any amounts included therein which were properly paid,  
25 credited, or required to be distributed, or permanently set  
26 aside for charitable purposes pursuant to Internal Revenue  
27 Code Section 642(c) during the taxable year.

28 (d) Partnerships.

29 (1) In general. In the case of a partnership, base  
30 income means an amount equal to the taxpayer's taxable  
31 income for the taxable year as modified by paragraph (2).

32 (2) Modifications. The taxable income referred to in  
33 paragraph (1) shall be modified by adding thereto the sum

1 of the following amounts:

2 (A) An amount equal to all amounts paid or accrued  
3 to the taxpayer as interest or dividends during the  
4 taxable year to the extent excluded from gross income  
5 in the computation of taxable income;

6 (B) An amount equal to the amount of tax imposed by  
7 this Act to the extent deducted from gross income for  
8 the taxable year;

9 (C) The amount of deductions allowed to the  
10 partnership pursuant to Section 707 (c) of the Internal  
11 Revenue Code in calculating its taxable income;

12 (D) An amount equal to the amount of the capital  
13 gain deduction allowable under the Internal Revenue  
14 Code, to the extent deducted from gross income in the  
15 computation of taxable income;

16 (D-5) For taxable years 2001 and thereafter, an  
17 amount equal to the bonus depreciation deduction (30%  
18 of the adjusted basis of the qualified property) taken  
19 on the taxpayer's federal income tax return for the  
20 taxable year under subsection (k) of Section 168 of the  
21 Internal Revenue Code;

22 (D-6) If the taxpayer reports a capital gain or  
23 loss on the taxpayer's federal income tax return for  
24 the taxable year based on a sale or transfer of  
25 property for which the taxpayer was required in any  
26 taxable year to make an addition modification under  
27 subparagraph (D-5), then an amount equal to the  
28 aggregate amount of the deductions taken in all taxable  
29 years under subparagraph (D-5) with respect to that  
30 property.

31 The taxpayer is required to make the addition  
32 modification under this subparagraph only once with  
33 respect to any one piece of property;

34 (D-7) For taxable years ending on or after December

1           31, 2004, an amount equal to the amount otherwise  
2 allowed as a deduction in computing base income for  
3 interest paid, accrued, or incurred, directly or  
4 indirectly, to a foreign person who would be a member  
5 of the same unitary business group but for the fact the  
6 foreign person's business activity outside the United  
7 States is 80% or more of the foreign person's total  
8 business activity. The addition modification required  
9 by this subparagraph shall be reduced to the extent  
10 that dividends were included in base income of the  
11 unitary group for the same taxable year and received by  
12 the taxpayer or by a member of the taxpayer's unitary  
13 business group (including amounts included in gross  
14 income pursuant to Sections 951 through 964 of the  
15 Internal Revenue Code and amounts included in gross  
16 income under Section 78 of the Internal Revenue Code)  
17 with respect to the stock of the same person to whom  
18 the interest was paid, accrued, or incurred.

19           This paragraph shall not apply to the following:

20           (i) an item of interest paid, accrued, or  
21 incurred, directly or indirectly, to a foreign  
22 person who is subject in a foreign country or  
23 state, other than a state which requires mandatory  
24 unitary reporting, to a tax on or measured by net  
25 income with respect to such interest; or

26           (ii) an item of interest paid, accrued, or  
27 incurred, directly or indirectly, to a foreign  
28 person if the taxpayer can establish, based on a  
29 preponderance of the evidence, both of the  
30 following:

31           (a) the foreign person, during the same  
32 taxable year, paid, accrued, or incurred, the  
33 interest to a person that is not a related  
34 member, and

1 (b) the transaction giving rise to the  
2 interest expense between the taxpayer and the  
3 foreign person did not have as a principal  
4 purpose the avoidance of Illinois income tax,  
5 and is paid pursuant to a contract or agreement  
6 that reflects an arm's-length interest rate  
7 and terms; or

8 (iii) the taxpayer can establish, based on  
9 clear and convincing evidence, that the interest  
10 paid, accrued, or incurred relates to a contract or  
11 agreement entered into at arm's-length rates and  
12 terms and the principal purpose for the payment is  
13 not federal or Illinois tax avoidance; or

14 (iv) an item of interest paid, accrued, or  
15 incurred, directly or indirectly, to a foreign  
16 person if the taxpayer establishes by clear and  
17 convincing evidence that the adjustments are  
18 unreasonable; or if the taxpayer and the Director  
19 agree in writing to the application or use of an  
20 alternative method of apportionment under Section  
21 304(f).

22 Nothing in this subsection shall preclude the  
23 Director from making any other adjustment  
24 otherwise allowed under Section 404 of this Act for  
25 any tax year beginning after the effective date of  
26 this amendment provided such adjustment is made  
27 pursuant to regulation adopted by the Department  
28 and such regulations provide methods and standards  
29 by which the Department will utilize its authority  
30 under Section 404 of this Act; and

31 (D-8) For taxable years ending on or after December  
32 31, 2004, an amount equal to the amount of intangible  
33 expenses and costs otherwise allowed as a deduction in  
34 computing base income, and that were paid, accrued, or

1 incurred, directly or indirectly, to a foreign person  
2 who would be a member of the same unitary business  
3 group but for the fact that the foreign person's  
4 business activity outside the United States is 80% or  
5 more of that person's total business activity. The  
6 addition modification required by this subparagraph  
7 shall be reduced to the extent that dividends were  
8 included in base income of the unitary group for the  
9 same taxable year and received by the taxpayer or by a  
10 member of the taxpayer's unitary business group  
11 (including amounts included in gross income pursuant  
12 to Sections 951 through 964 of the Internal Revenue  
13 Code and amounts included in gross income under Section  
14 78 of the Internal Revenue Code) with respect to the  
15 stock of the same person to whom the intangible  
16 expenses and costs were directly or indirectly paid,  
17 incurred or accrued. The preceding sentence shall not  
18 apply to the extent that the same dividends caused a  
19 reduction to the addition modification required under  
20 Section 203(d)(2)(D-7) of this Act. As used in this  
21 subparagraph, the term "intangible expenses and costs"  
22 includes (1) expenses, losses, and costs for, or  
23 related to, the direct or indirect acquisition, use,  
24 maintenance or management, ownership, sale, exchange,  
25 or any other disposition of intangible property; (2)  
26 losses incurred, directly or indirectly, from  
27 factoring transactions or discounting transactions;  
28 (3) royalty, patent, technical, and copyright fees;  
29 (4) licensing fees; and (5) other similar expenses and  
30 costs. For purposes of this subparagraph, "intangible  
31 property" includes patents, patent applications, trade  
32 names, trademarks, service marks, copyrights, mask  
33 works, trade secrets, and similar types of intangible  
34 assets;

1 This paragraph shall not apply to the following:

2 (i) any item of intangible expenses or costs  
3 paid, accrued, or incurred, directly or  
4 indirectly, from a transaction with a foreign  
5 person who is subject in a foreign country or  
6 state, other than a state which requires mandatory  
7 unitary reporting, to a tax on or measured by net  
8 income with respect to such item; or

9 (ii) any item of intangible expense or cost  
10 paid, accrued, or incurred, directly or  
11 indirectly, if the taxpayer can establish, based  
12 on a preponderance of the evidence, both of the  
13 following:

14 (a) the foreign person during the same  
15 taxable year paid, accrued, or incurred, the  
16 intangible expense or cost to a person that is  
17 not a related member, and

18 (b) the transaction giving rise to the  
19 intangible expense or cost between the  
20 taxpayer and the foreign person did not have as  
21 a principal purpose the avoidance of Illinois  
22 income tax, and is paid pursuant to a contract  
23 or agreement that reflects arm's-length terms;  
24 or

25 (iii) any item of intangible expense or cost  
26 paid, accrued, or incurred, directly or  
27 indirectly, from a transaction with a foreign  
28 person if the taxpayer establishes by clear and  
29 convincing evidence, that the adjustments are  
30 unreasonable; or if the taxpayer and the Director  
31 agree in writing to the application or use of an  
32 alternative method of apportionment under Section  
33 304(f);

34 Nothing in this subsection shall preclude the

1 Director from making any other adjustment  
2 otherwise allowed under Section 404 of this Act for  
3 any tax year beginning after the effective date of  
4 this amendment provided such adjustment is made  
5 pursuant to regulation adopted by the Department  
6 and such regulations provide methods and standards  
7 by which the Department will utilize its authority  
8 under Section 404 of this Act;

9 and by deducting from the total so obtained the following  
10 amounts:

11 (E) The valuation limitation amount;

12 (F) An amount equal to the amount of any tax  
13 imposed by this Act which was refunded to the taxpayer  
14 and included in such total for the taxable year;

15 (G) An amount equal to all amounts included in  
16 taxable income as modified by subparagraphs (A), (B),  
17 (C) and (D) which are exempt from taxation by this  
18 State either by reason of its statutes or Constitution  
19 or by reason of the Constitution, treaties or statutes  
20 of the United States; provided that, in the case of any  
21 statute of this State that exempts income derived from  
22 bonds or other obligations from the tax imposed under  
23 this Act, the amount exempted shall be the interest net  
24 of bond premium amortization;

25 (H) Any income of the partnership which  
26 constitutes personal service income as defined in  
27 Section 1348 (b) (1) of the Internal Revenue Code (as  
28 in effect December 31, 1981) or a reasonable allowance  
29 for compensation paid or accrued for services rendered  
30 by partners to the partnership, whichever is greater;

31 (I) An amount equal to all amounts of income  
32 distributable to an entity subject to the Personal  
33 Property Tax Replacement Income Tax imposed by  
34 subsections (c) and (d) of Section 201 of this Act

1 including amounts distributable to organizations  
2 exempt from federal income tax by reason of Section  
3 501(a) of the Internal Revenue Code;

4 (J) With the exception of any amounts subtracted  
5 under subparagraph (G), an amount equal to the sum of  
6 all amounts disallowed as deductions by (i) Sections  
7 171(a) (2), and 265(2) of the Internal Revenue Code of  
8 1954, as now or hereafter amended, and all amounts of  
9 expenses allocable to interest and disallowed as  
10 deductions by Section 265(1) of the Internal Revenue  
11 Code, as now or hereafter amended; and (ii) for taxable  
12 years ending on or after August 13, 1999, Sections  
13 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the  
14 Internal Revenue Code; the provisions of this  
15 subparagraph are exempt from the provisions of Section  
16 250;

17 (K) An amount equal to those dividends included in  
18 such total which were paid by a corporation which  
19 conducts business operations in an Enterprise Zone or  
20 zones created under the Illinois Enterprise Zone Act,  
21 enacted by the 82nd General Assembly, or a River Edge  
22 Redevelopment Zone or zones created under the Rive Edge  
23 Redevelopment Zone Act and conducts substantially all  
24 of its operations in an Enterprise Zone or Zones or  
25 from a River Edge Redevelopment Zone or zones. This  
26 subparagraph (K) is exempt from the provisions of  
27 Section 250;

28 (L) An amount equal to any contribution made to a  
29 job training project established pursuant to the Real  
30 Property Tax Increment Allocation Redevelopment Act;

31 (M) An amount equal to those dividends included in  
32 such total that were paid by a corporation that  
33 conducts business operations in a federally designated  
34 Foreign Trade Zone or Sub-Zone and that is designated a



1 High Impact Business located in Illinois; provided  
2 that dividends eligible for the deduction provided in  
3 subparagraph (K) of paragraph (2) of this subsection  
4 shall not be eligible for the deduction provided under  
5 this subparagraph (M);

6 (N) An amount equal to the amount of the deduction  
7 used to compute the federal income tax credit for  
8 restoration of substantial amounts held under claim of  
9 right for the taxable year pursuant to Section 1341 of  
10 the Internal Revenue Code of 1986;

11 (O) For taxable years 2001 and thereafter, for the  
12 taxable year in which the bonus depreciation deduction  
13 (30% of the adjusted basis of the qualified property)  
14 is taken on the taxpayer's federal income tax return  
15 under subsection (k) of Section 168 of the Internal  
16 Revenue Code and for each applicable taxable year  
17 thereafter, an amount equal to "x", where:

18 (1) "y" equals the amount of the depreciation  
19 deduction taken for the taxable year on the  
20 taxpayer's federal income tax return on property  
21 for which the bonus depreciation deduction (30% of  
22 the adjusted basis of the qualified property) was  
23 taken in any year under subsection (k) of Section  
24 168 of the Internal Revenue Code, but not including  
25 the bonus depreciation deduction; and

26 (2) "x" equals "y" multiplied by 30 and then  
27 divided by 70 (or "y" multiplied by 0.429).

28 The aggregate amount deducted under this  
29 subparagraph in all taxable years for any one piece of  
30 property may not exceed the amount of the bonus  
31 depreciation deduction (30% of the adjusted basis of  
32 the qualified property) taken on that property on the  
33 taxpayer's federal income tax return under subsection  
34 (k) of Section 168 of the Internal Revenue Code;

1           (P) If the taxpayer reports a capital gain or loss  
2 on the taxpayer's federal income tax return for the  
3 taxable year based on a sale or transfer of property  
4 for which the taxpayer was required in any taxable year  
5 to make an addition modification under subparagraph  
6 (D-5), then an amount equal to that addition  
7 modification.

8           The taxpayer is allowed to take the deduction under  
9 this subparagraph only once with respect to any one  
10 piece of property;

11           (Q) The amount of (i) any interest income (net of  
12 the deductions allocable thereto) taken into account  
13 for the taxable year with respect to a transaction with  
14 a taxpayer that is required to make an addition  
15 modification with respect to such transaction under  
16 Section 203(a)(2)(D-17), 203(b)(2)(E-12),  
17 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
18 the amount of such addition modification and (ii) any  
19 income from intangible property (net of the deductions  
20 allocable thereto) taken into account for the taxable  
21 year with respect to a transaction with a taxpayer that  
22 is required to make an addition modification with  
23 respect to such transaction under Section  
24 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
25 203(d)(2)(D-8), but not to exceed the amount of such  
26 addition modification;

27           (R) An amount equal to the interest income taken  
28 into account for the taxable year (net of the  
29 deductions allocable thereto) with respect to  
30 transactions with a foreign person who would be a  
31 member of the taxpayer's unitary business group but for  
32 the fact that the foreign person's business activity  
33 outside the United States is 80% or more of that  
34 person's total business activity, but not to exceed the

1 addition modification required to be made for the same  
2 taxable year under Section 203(d) (2) (D-7) for interest  
3 paid, accrued, or incurred, directly or indirectly, to  
4 the same foreign person; and

5 (S) An amount equal to the income from intangible  
6 property taken into account for the taxable year (net  
7 of the deductions allocable thereto) with respect to  
8 transactions with a foreign person who would be a  
9 member of the taxpayer's unitary business group but for  
10 the fact that the foreign person's business activity  
11 outside the United States is 80% or more of that  
12 person's total business activity, but not to exceed the  
13 addition modification required to be made for the same  
14 taxable year under Section 203(d) (2) (D-8) for  
15 intangible expenses and costs paid, accrued, or  
16 incurred, directly or indirectly, to the same foreign  
17 person.

18 (e) Gross income; adjusted gross income; taxable income.

19 (1) In general. Subject to the provisions of paragraph  
20 (2) and subsection (b) (3), for purposes of this Section  
21 and Section 803(e), a taxpayer's gross income, adjusted  
22 gross income, or taxable income for the taxable year shall  
23 mean the amount of gross income, adjusted gross income or  
24 taxable income properly reportable for federal income tax  
25 purposes for the taxable year under the provisions of the  
26 Internal Revenue Code. Taxable income may be less than  
27 zero. However, for taxable years ending on or after  
28 December 31, 1986, net operating loss carryforwards from  
29 taxable years ending prior to December 31, 1986, may not  
30 exceed the sum of federal taxable income for the taxable  
31 year before net operating loss deduction, plus the excess  
32 of addition modifications over subtraction modifications  
33 for the taxable year. For taxable years ending prior to

1 December 31, 1986, taxable income may never be an amount in  
2 excess of the net operating loss for the taxable year as  
3 defined in subsections (c) and (d) of Section 172 of the  
4 Internal Revenue Code, provided that when taxable income of  
5 a corporation (other than a Subchapter S corporation),  
6 trust, or estate is less than zero and addition  
7 modifications, other than those provided by subparagraph  
8 (E) of paragraph (2) of subsection (b) for corporations or  
9 subparagraph (E) of paragraph (2) of subsection (c) for  
10 trusts and estates, exceed subtraction modifications, an  
11 addition modification must be made under those  
12 subparagraphs for any other taxable year to which the  
13 taxable income less than zero (net operating loss) is  
14 applied under Section 172 of the Internal Revenue Code or  
15 under subparagraph (E) of paragraph (2) of this subsection  
16 (e) applied in conjunction with Section 172 of the Internal  
17 Revenue Code.

18 (2) Special rule. For purposes of paragraph (1) of this  
19 subsection, the taxable income properly reportable for  
20 federal income tax purposes shall mean:

21 (A) Certain life insurance companies. In the case  
22 of a life insurance company subject to the tax imposed  
23 by Section 801 of the Internal Revenue Code, life  
24 insurance company taxable income, plus the amount of  
25 distribution from pre-1984 policyholder surplus  
26 accounts as calculated under Section 815a of the  
27 Internal Revenue Code;

28 (B) Certain other insurance companies. In the case  
29 of mutual insurance companies subject to the tax  
30 imposed by Section 831 of the Internal Revenue Code,  
31 insurance company taxable income;

32 (C) Regulated investment companies. In the case of  
33 a regulated investment company subject to the tax  
34 imposed by Section 852 of the Internal Revenue Code,

1 investment company taxable income;

2 (D) Real estate investment trusts. In the case of a  
3 real estate investment trust subject to the tax imposed  
4 by Section 857 of the Internal Revenue Code, real  
5 estate investment trust taxable income;

6 (E) Consolidated corporations. In the case of a  
7 corporation which is a member of an affiliated group of  
8 corporations filing a consolidated income tax return  
9 for the taxable year for federal income tax purposes,  
10 taxable income determined as if such corporation had  
11 filed a separate return for federal income tax purposes  
12 for the taxable year and each preceding taxable year  
13 for which it was a member of an affiliated group. For  
14 purposes of this subparagraph, the taxpayer's separate  
15 taxable income shall be determined as if the election  
16 provided by Section 243(b) (2) of the Internal Revenue  
17 Code had been in effect for all such years;

18 (F) Cooperatives. In the case of a cooperative  
19 corporation or association, the taxable income of such  
20 organization determined in accordance with the  
21 provisions of Section 1381 through 1388 of the Internal  
22 Revenue Code;

23 (G) Subchapter S corporations. In the case of: (i)  
24 a Subchapter S corporation for which there is in effect  
25 an election for the taxable year under Section 1362 of  
26 the Internal Revenue Code, the taxable income of such  
27 corporation determined in accordance with Section  
28 1363(b) of the Internal Revenue Code, except that  
29 taxable income shall take into account those items  
30 which are required by Section 1363(b)(1) of the  
31 Internal Revenue Code to be separately stated; and (ii)  
32 a Subchapter S corporation for which there is in effect  
33 a federal election to opt out of the provisions of the  
34 Subchapter S Revision Act of 1982 and have applied

1           instead the prior federal Subchapter S rules as in  
2           effect on July 1, 1982, the taxable income of such  
3           corporation determined in accordance with the federal  
4           Subchapter S rules as in effect on July 1, 1982; and

5           (H) Partnerships. In the case of a partnership,  
6           taxable income determined in accordance with Section  
7           703 of the Internal Revenue Code, except that taxable  
8           income shall take into account those items which are  
9           required by Section 703(a)(1) to be separately stated  
10          but which would be taken into account by an individual  
11          in calculating his taxable income.

12          (3) Recapture of business expenses on disposition of  
13          asset or business. Notwithstanding any other law to the  
14          contrary, if in prior years income from an asset or  
15          business has been classified as business income and in a  
16          later year is demonstrated to be non-business income, then  
17          all expenses, without limitation, deducted in such later  
18          year and in the 2 immediately preceding taxable years  
19          related to that asset or business that generated the  
20          non-business income shall be added back and recaptured as  
21          business income in the year of the disposition of the asset  
22          or business. Such amount shall be apportioned to Illinois  
23          using the greater of the apportionment fraction computed  
24          for the business under Section 304 of this Act for the  
25          taxable year or the average of the apportionment fractions  
26          computed for the business under Section 304 of this Act for  
27          the taxable year and for the 2 immediately preceding  
28          taxable years.

29          (f) Valuation limitation amount.

30          (1) In general. The valuation limitation amount  
31          referred to in subsections (a) (2) (G), (c) (2) (I) and  
32          (d) (2) (E) is an amount equal to:

33                  (A) The sum of the pre-August 1, 1969 appreciation  
34                  amounts (to the extent consisting of gain reportable

1 under the provisions of Section 1245 or 1250 of the  
2 Internal Revenue Code) for all property in respect of  
3 which such gain was reported for the taxable year; plus

4 (B) The lesser of (i) the sum of the pre-August 1,  
5 1969 appreciation amounts (to the extent consisting of  
6 capital gain) for all property in respect of which such  
7 gain was reported for federal income tax purposes for  
8 the taxable year, or (ii) the net capital gain for the  
9 taxable year, reduced in either case by any amount of  
10 such gain included in the amount determined under  
11 subsection (a) (2) (F) or (c) (2) (H).

12 (2) Pre-August 1, 1969 appreciation amount.

13 (A) If the fair market value of property referred  
14 to in paragraph (1) was readily ascertainable on August  
15 1, 1969, the pre-August 1, 1969 appreciation amount for  
16 such property is the lesser of (i) the excess of such  
17 fair market value over the taxpayer's basis (for  
18 determining gain) for such property on that date  
19 (determined under the Internal Revenue Code as in  
20 effect on that date), or (ii) the total gain realized  
21 and reportable for federal income tax purposes in  
22 respect of the sale, exchange or other disposition of  
23 such property.

24 (B) If the fair market value of property referred  
25 to in paragraph (1) was not readily ascertainable on  
26 August 1, 1969, the pre-August 1, 1969 appreciation  
27 amount for such property is that amount which bears the  
28 same ratio to the total gain reported in respect of the  
29 property for federal income tax purposes for the  
30 taxable year, as the number of full calendar months in  
31 that part of the taxpayer's holding period for the  
32 property ending July 31, 1969 bears to the number of  
33 full calendar months in the taxpayer's entire holding  
34 period for the property.

1           (C)     The     Department     shall     prescribe     such  
2           regulations     as     may     be     necessary     to     carry     out     the  
3           purposes     of     this     paragraph.

4           (g)     Double     deductions.     Unless     specifically     provided  
5           otherwise,     nothing     in     this     Section     shall     permit     the     same     item  
6           to     be     deducted     more     than     once.

7           (h)     Legislative     intention.     Except     as     expressly     provided     by  
8           this     Section     there     shall     be     no     modifications     or     limitations     on  
9           the     amounts     of     income,     gain,     loss     or     deduction     taken     into  
10          account     in     determining     gross     income,     adjusted     gross     income     or  
11          taxable     income     for     federal     income     tax     purposes     for     the     taxable  
12          year,     or     in     the     amount     of     such     items     entering     into     the  
13          computation     of     base     income     and     net     income     under     this     Act     for  
14          such     taxable     year,     whether     in     respect     of     property     values     as     of  
15          August     1,     1969     or     otherwise.

16          (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,  
17          eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;  
18          92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.  
19          7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)

20          Section 90-20. The Use Tax Act is amended by changing  
21          Section 12 as follows:

22          (35 ILCS 105/12) (from Ch. 120, par. 439.12)

23          Sec. 12. Applicability of Retailers' Occupation Tax Act and  
24          Uniform Penalty and Interest Act. All of the provisions of  
25          Sections 1d, 1e, 1f, 1i, 1j, 1j.1, 1k, 1m, 1n, 1o, 2-54, 2a,  
26          2b, 2c, 3, 4 (except that the time limitation provisions shall  
27          run from the date when the tax is due rather than from the date  
28          when gross receipts are received), 5 (except that the time  
29          limitation provisions on the issuance of notices of tax  
30          liability shall run from the date when the tax is due rather



1 than from the date when gross receipts are received and except  
2 that in the case of a failure to file a return required by this  
3 Act, no notice of tax liability shall be issued on and after  
4 each July 1 and January 1 covering tax due with that return  
5 during any month or period more than 6 years before that July 1  
6 or January 1, respectively), 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h,  
7 5j, 5k, 5l, 7, 8, 9, 10, 11 and 12 of the Retailers' Occupation  
8 Tax Act and Section 3-7 of the Uniform Penalty and Interest  
9 Act, which are not inconsistent with this Act, shall apply, as  
10 far as practicable, to the subject matter of this Act to the  
11 same extent as if such provisions were included herein.

12 (Source: P.A. 90-42, eff. 1-1-98; 90-792, eff. 1-1-99.)

13 Section 90-25. The Service Use Tax Act is amended by  
14 changing Section 12 as follows:

15 (35 ILCS 110/12) (from Ch. 120, par. 439.42)

16 Sec. 12. Applicability of Retailers' Occupation Tax Act and  
17 Uniform Penalty and Interest Act. All of the provisions of  
18 Sections 1d, 1e, 1f, 1i, 1j, 1j.1, 1k, 1m, 1n, 1o, 2-54, 2a,  
19 2b, 2c, 3 (except as to the disposition by the Department of  
20 the money collected under this Act), 4 (except that the time  
21 limitation provisions shall run from the date when gross  
22 receipts are received), 5 (except that the time limitation  
23 provisions on the issuance of notices of tax liability shall  
24 run from the date when the tax is due rather than from the date  
25 when gross receipts are received and except that in the case of  
26 a failure to file a return required by this Act, no notice of  
27 tax liability shall be issued on and after July 1 and January 1  
28 covering tax due with that return during any month or period  
29 more than 6 years before that July 1 or January 1,  
30 respectively), 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5j, 5k, 5l, 7, 8, 9,  
31 10, 11 and 12 of the Retailers' Occupation Tax Act which are  
32 not inconsistent with this Act, and Section 3-7 of the Uniform

1 Penalty and Interest Act, shall apply, as far as practicable,  
2 to the subject matter of this Act to the same extent as if such  
3 provisions were included herein.

4 (Source: P.A. 90-42, eff. 1-1-98; 90-792, eff. 1-1-99.)

5 Section 90-30. The Service Occupation Tax Act is amended by  
6 changing Section 12 as follows:

7 (35 ILCS 115/12) (from Ch. 120, par. 439.112)

8 Sec. 12. All of the provisions of Sections 1d, 1e, 1f, 1i,  
9 1j, 1j.1, 1k, 1m, 1n, 1o, 2-54, 2a, 2b, 2c, 3 (except as to the  
10 disposition by the Department of the tax collected under this  
11 Act), 4 (except that the time limitation provisions shall run  
12 from the date when the tax is due rather than from the date  
13 when gross receipts are received), 5 (except that the time  
14 limitation provisions on the issuance of notices of tax  
15 liability shall run from the date when the tax is due rather  
16 than from the date when gross receipts are received), 5a, 5b,  
17 5c, 5d, 5e, 5f, 5g, 5j, 5k, 5l, 7, 8, 9, 10, 11 and 12 of the  
18 "Retailers' Occupation Tax Act" which are not inconsistent with  
19 this Act, and Section 3-7 of the Uniform Penalty and Interest  
20 Act shall apply, as far as practicable, to the subject matter  
21 of this Act to the same extent as if such provisions were  
22 included herein.

23 (Source: P.A. 90-42, eff. 1-1-98; 90-792, eff. 1-1-99.)

24 Section 90-35. The Retailers' Occupation Tax Act is amended  
25 by adding Section 2-54 as follows:

26 (35 ILCS 120/2-54 new)

27 Sec. 2-54. Building materials exemption; River Edge  
28 Redevelopment Zones. Each retailer that makes a qualified sale  
29 of building materials to be incorporated into real estate  
30 within a River Edge Redevelopment Zone in accordance with the

1 River Edge Redevelopment Zone Act by remodeling,  
2 rehabilitating, or new construction may deduct receipts from  
3 those sales when calculating the tax imposed by this Act. For  
4 purposes of this Section, "qualified sale" means a sale of  
5 building materials that will be incorporated into real estate  
6 as part of an industrial or commercial project for which a  
7 Certificate of Eligibility for Sales Tax Exemption has been  
8 issued by the corporate authorities of the municipality in  
9 which the building project is located. To document the  
10 exemption allowed under this Section, the retailer must obtain  
11 from the purchaser a copy of the Certificate of Eligibility for  
12 Sales Tax Exemption issued by the corporate authorities of the  
13 municipality in which the real estate into which the building  
14 materials will be incorporated is located. The Certificate of  
15 Eligibility for Sales Tax Exemption must contain all of the  
16 following:

17 (1) A statement that the commercial or industrial  
18 project identified in the Certificate meets all the  
19 requirements of the jurisdiction in which the project is  
20 located.

21 (2) The location or address of the building project.

22 (3) The signature of the chief executive officer of the  
23 municipality in which the building project is located, or  
24 the chief executive officer's delegate.

25 In addition, the retailer must obtain a certificate from  
26 the purchaser that contains all of the following:

27 (1) A statement that the building materials are being  
28 purchased for incorporation into real estate located in a  
29 River Edge Redevelopment Zone included in a redevelopment  
30 project area in accordance with River Edge Redevelopment  
31 Zone Act.

32 (2) The location or address of the real estate into  
33 which the building materials will be incorporated.

34 (3) The name of the River Edge Redevelopment Zone in

1       which that real estate is located.

2           (4) A description of the building materials being  
3       purchased.

4           (5) The purchaser's signature and date of purchase.

5       The provisions of this Section are exempt from Section  
6       2-70.

7           Section 90-40. The Property Tax Code is amended by changing  
8       Section 18-170 as follows:

9           (35 ILCS 200/18-170)

10          Sec. 18-170. Enterprise zone and River Edge Redevelopment  
11       Zone abatement. In addition to the authority to abate taxes  
12       under Section 18-165, any taxing district, upon a majority vote  
13       of its governing authority, may order the county clerk to abate  
14       any portion of its taxes on property, or any class thereof,  
15       located within an Enterprise Zone created under the Illinois  
16       Enterprise Zone Act or a River Edge Redevelopment Zone created  
17       under the River Edge Redevelopment Zone Act, and upon which  
18       either new improvements have been constructed or existing  
19       improvements have been renovated or rehabilitated after  
20       December 7, 1982. However, any abatement of taxes on any parcel  
21       shall not exceed the amount attributable to the construction of  
22       the improvements and the renovation or rehabilitation of  
23       existing improvements on the parcel. In the case of property  
24       within a redevelopment area created under the Tax Increment  
25       Allocation Redevelopment Act, the abatement shall not apply  
26       unless a business enterprise or individual with regard to new  
27       improvements or renovated or rehabilitated improvements has  
28       met the requirements of Section 5.4.1 of the Illinois  
29       Enterprise Zone Act or under Section 10-5.4.1 of the River Edge  
30       Redevelopment Zone Act. If an abatement is discontinued under  
31       this Section, a municipality shall notify the county clerk and  
32       the board of review or board of appeals of the change in

1 writing not later than July 1 of the assessment year to be  
2 first affected by the change. However, within a county economic  
3 development project area created under the County Economic  
4 Development Project Area Property Tax Allocation Act, any  
5 municipality or county which has adopted tax increment  
6 allocation financing under the Tax Increment Allocation  
7 Redevelopment Act or the County Economic Development Project  
8 Area Tax Increment Allocation Act may abate any portion of its  
9 taxes as provided in this Section. Any other taxing district  
10 within the county economic development project area may order  
11 any portion or all of its taxes abated as provided above if the  
12 county or municipality which created the tax increment district  
13 has agreed, in writing, to the abatement.

14 A copy of an abatement order adopted under this Section  
15 shall be delivered to the county clerk and to the board of  
16 review or board of appeals not later than July 1 of the  
17 assessment year to be first affected by the order. If it is  
18 delivered on or after that date, it will first affect the taxes  
19 extended on the assessment of the following year. The board of  
20 review or board of appeals shall, each time the assessment  
21 books are delivered to the county clerk, also deliver a list of  
22 parcels affected by an abatement and the assessed value  
23 attributable to new improvements or to the renovation or  
24 rehabilitation of existing improvements.

25 (Source: P.A. 89-126, eff. 7-11-95; 89-671, eff. 8-14-96;  
26 90-258, eff. 7-30-97.)

27 Section 90-45. The Environmental Protection Act is amended  
28 by changing Sections 58.13 and 58.14 as follows:

29 (415 ILCS 5/58.13)

30 Sec. 58.13. Municipal Brownfields Redevelopment Grant  
31 Program.

32 (a) (1) The Agency shall establish and administer a program

1 of grants, to be known as the Municipal Brownfields  
2 Redevelopment Grant Program, to provide municipalities in  
3 Illinois with financial assistance to be used for  
4 coordination of activities related to brownfields  
5 redevelopment, including but not limited to identification  
6 of brownfields sites, including those sites within River  
7 Edge Redevelopment Zones, site investigation and  
8 determination of remediation objectives and related plans  
9 and reports, development of remedial action plans, and  
10 implementation of remedial action plans and remedial  
11 action completion reports. The plans and reports shall be  
12 developed in accordance with Title XVII of this Act.

13 (2) Grants shall be awarded on a competitive basis  
14 subject to availability of funding. Criteria for awarding  
15 grants shall include, but shall not be limited to the  
16 following:

- 17 (A) problem statement and needs assessment;  
18 (B) community-based planning and involvement;  
19 (C) implementation planning; and  
20 (D) long-term benefits and sustainability.

21 (3) The Agency may give weight to geographic location  
22 to enhance geographic distribution of grants across this  
23 State.

24 (4) Except for grants to municipalities with  
25 designated River Edge Redevelopment Zones, grants ~~Grants~~  
26 shall be limited to a maximum of \$240,000, and no  
27 municipality shall receive more than this amount under this  
28 Section. For grants to municipalities with designated  
29 River Edge Redevelopment Zones, grants shall be limited to  
30 a maximum of \$2,000,000 and no municipality shall receive  
31 more than this amount under this Section.

32 (5) Grant amounts shall not exceed 70% of the project  
33 amount, with the remainder to be provided by the  
34 municipality as local matching funds.

1 (b) The Agency shall have the authority to enter into any  
2 contracts or agreements that may be necessary to carry out its  
3 duties or responsibilities under this Section. The Agency shall  
4 have the authority to adopt rules setting forth procedures and  
5 criteria for administering the Municipal Brownfields  
6 Redevelopment Grant Program. The rules adopted by the Agency  
7 may include but shall not be limited to the following:

8 (1) purposes for which grants are available;

9 (2) application periods and content of applications;

10 (3) procedures and criteria for Agency review of grant  
11 applications, grant approvals and denials, and grantee  
12 acceptance;

13 (4) grant payment schedules;

14 (5) grantee responsibilities for work schedules, work  
15 plans, reports, and record keeping;

16 (6) evaluation of grantee performance, including but  
17 not limited to auditing and access to sites and records;

18 (7) requirements applicable to contracting and  
19 subcontracting by the grantee;

20 (8) penalties for noncompliance with grant  
21 requirements and conditions, including stop-work orders,  
22 termination of grants, and recovery of grant funds;

23 (9) indemnification of this State and the Agency by the  
24 grantee; and

25 (10) manner of compliance with the Local Government  
26 Professional Services Selection Act.

27 (Source: P.A. 92-486, eff. 1-1-02; 92-715, eff. 7-23-02.)

28 (415 ILCS 5/58.14)

29 Sec. 58.14. Environmental Remediation Tax Credit review.

30 (a) Prior to applying for the Environmental Remediation Tax  
31 Credit under Section 201 of the Illinois Income Tax Act,  
32 Remediation Applicants shall first submit to the Agency an  
33 application for review of remediation costs. The Agency shall

1 review the application jointly with the Department of Commerce  
2 and Economic Opportunity. The application and review process  
3 shall be conducted in accordance with the requirements of this  
4 Section and the rules adopted under subsection (g). A  
5 preliminary review of the estimated remediation costs for  
6 development and implementation of the Remedial Action Plan may  
7 be obtained in accordance with subsection (d).

8 (b) No application for review shall be submitted until a No  
9 Further Remediation Letter has been issued by the Agency and  
10 recorded in the chain of title for the site in accordance with  
11 Section 58.10. The Agency shall review the application to  
12 determine whether the costs submitted are remediation costs,  
13 and whether the costs incurred are reasonable. The application  
14 shall be on forms prescribed and provided by the Agency. At a  
15 minimum, the application shall include the following:

16 (1) information identifying the Remediation Applicant  
17 and the site for which the tax credit is being sought and  
18 the date of acceptance of the site into the Site  
19 Remediation Program;

20 (2) a copy of the No Further Remediation Letter with  
21 official verification that the letter has been recorded in  
22 the chain of title for the site and a demonstration that  
23 the site for which the application is submitted is the same  
24 site as the one for which the No Further Remediation Letter  
25 is issued;

26 (3) a demonstration that the release of the regulated  
27 substances of concern for which the No Further Remediation  
28 Letter was issued were not caused or contributed to in any  
29 material respect by the Remediation Applicant. After the  
30 Pollution Control Board rules are adopted pursuant to the  
31 Illinois Administrative Procedure Act for the  
32 administration and enforcement of Section 58.9 of the  
33 Environmental Protection Act, determinations as to credit  
34 availability shall be made consistent with those rules;



1           (4) an itemization and documentation, including  
2 receipts, of the remediation costs incurred;

3           (5) a demonstration that the costs incurred are  
4 remediation costs as defined in this Act and its rules;

5           (6) a demonstration that the costs submitted for review  
6 were incurred by the Remediation Applicant who received the  
7 No Further Remediation Letter;

8           (7) an application fee in the amount set forth in  
9 subsection (e) for each site for which review of  
10 remediation costs is requested and, if applicable,  
11 certification from the Department of Commerce and Economic  
12 Opportunity ~~Community Affairs~~ that the site is located in  
13 an enterprise zone;

14           (8) any other information deemed appropriate by the  
15 Agency.

16           (c) Within 60 days after receipt by the Agency of an  
17 application meeting the requirements of subsection (b), the  
18 Agency shall issue a letter to the applicant approving,  
19 disapproving, or modifying the remediation costs submitted in  
20 the application. If the remediation costs are approved as  
21 submitted, the Agency's letter shall state the amount of the  
22 remediation costs to be applied toward the Environmental  
23 Remediation Tax Credit. If an application is disapproved or  
24 approved with modification of remediation costs, the Agency's  
25 letter shall set forth the reasons for the disapproval or  
26 modification and state the amount of the remediation costs, if  
27 any, to be applied toward the Environmental Remediation Tax  
28 Credit.

29           If a preliminary review of a budget plan has been obtained  
30 under subsection (d), the Remediation Applicant may submit,  
31 with the application and supporting documentation under  
32 subsection (b), a copy of the Agency's final determination  
33 accompanied by a certification that the actual remediation  
34 costs incurred for the development and implementation of the

1 Remedial Action Plan are equal to or less than the costs  
2 approved in the Agency's final determination on the budget  
3 plan. The certification shall be signed by the Remediation  
4 Applicant and notarized. Based on that submission, the Agency  
5 shall not be required to conduct further review of the costs  
6 incurred for development and implementation of the Remedial  
7 Action Plan and may approve costs as submitted.

8 Within 35 days after receipt of an Agency letter  
9 disapproving or modifying an application for approval of  
10 remediation costs, the Remediation Applicant may appeal the  
11 Agency's decision to the Board in the manner provided for the  
12 review of permits in Section 40 of this Act.

13 (d) (1) A Remediation Applicant may obtain a preliminary  
14 review of estimated remediation costs for the development  
15 and implementation of the Remedial Action Plan by  
16 submitting a budget plan along with the Remedial Action  
17 Plan. The budget plan shall be set forth on forms  
18 prescribed and provided by the Agency and shall include but  
19 shall not be limited to line item estimates of the costs  
20 associated with each line item (such as personnel,  
21 equipment, and materials) that the Remediation Applicant  
22 anticipates will be incurred for the development and  
23 implementation of the Remedial Action Plan. The Agency  
24 shall review the budget plan along with the Remedial Action  
25 Plan to determine whether the estimated costs submitted are  
26 remediation costs and whether the costs estimated for the  
27 activities are reasonable.

28 (2) If the Remedial Action Plan is amended by the  
29 Remediation Applicant or as a result of Agency action, the  
30 corresponding budget plan shall be revised accordingly and  
31 resubmitted for Agency review.

32 (3) The budget plan shall be accompanied by the  
33 applicable fee as set forth in subsection (e).

34 (4) Submittal of a budget plan shall be deemed an

1 automatic 60-day waiver of the Remedial Action Plan review  
2 deadlines set forth in this Section and its rules.

3 (5) Within the applicable period of review, the Agency  
4 shall issue a letter to the Remediation Applicant  
5 approving, disapproving, or modifying the estimated  
6 remediation costs submitted in the budget plan. If a budget  
7 plan is disapproved or approved with modification of  
8 estimated remediation costs, the Agency's letter shall set  
9 forth the reasons for the disapproval or modification.

10 (6) Within 35 days after receipt of an Agency letter  
11 disapproving or modifying a budget plan, the Remediation  
12 Applicant may appeal the Agency's decision to the Board in  
13 the manner provided for the review of permits in Section 40  
14 of this Act.

15 (e) The fees for reviews conducted under this Section are  
16 in addition to any other fees or payments for Agency services  
17 rendered pursuant to the Site Remediation Program and shall be  
18 as follows:

19 (1) The fee for an application for review of  
20 remediation costs shall be \$1,000 for each site reviewed.

21 (2) The fee for the review of the budget plan submitted  
22 under subsection (d) shall be \$500 for each site reviewed.

23 (3) In the case of a Remediation Applicant submitting  
24 for review total remediation costs ~~of \$100,000 or less~~ for  
25 a site located within a River Edge Redevelopment Zone ~~an~~  
26 ~~enterprise zone~~ (as set forth in paragraph (i) of  
27 subsection (n) ~~(l)~~ of Section 201 of the Illinois Income  
28 Tax Act), the fee for an application for review of  
29 remediation costs shall be \$250 for each site reviewed. For  
30 those sites, there shall be no fee for review of a budget  
31 plan under subsection (d).

32 The application fee shall be made payable to the State of  
33 Illinois, for deposit into the Hazardous Waste Fund.

34 Pursuant to appropriation, the Agency shall use the fees

1 collected under this subsection for development and  
2 administration of the review program.

3 (f) The Agency shall have the authority to enter into any  
4 contracts or agreements that may be necessary to carry out its  
5 duties and responsibilities under this Section.

6 (g) Within 6 months after July 21, 1997, the Agency shall  
7 propose rules prescribing procedures and standards for its  
8 administration of this Section. Within 6 months after receipt  
9 of the Agency's proposed rules, the Board shall adopt on second  
10 notice, pursuant to Sections 27 and 28 of this Act and the  
11 Illinois Administrative Procedure Act, rules that are  
12 consistent with this Section. Prior to the effective date of  
13 rules adopted under this Section, the Agency may conduct  
14 reviews of applications under this Section and the Agency is  
15 further authorized to distribute guidance documents on costs  
16 that are eligible or ineligible as remediation costs.

17 (Source: P.A. 92-574, eff. 6-26-02; revised 12-6-03.)

18 ARTICLE 900.

19 SEVERABILITY; EFFECTIVE DATE

20 Section 900-5. Severability. The provisions of this Act are  
21 severable under Section 1.31 of the Statute on Statutes.

22 Section 900-10. Effective date. This Act takes effect upon  
23 becoming law."