



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

SB1578

Introduced 2/9/2007, by Sen. Michael Bond

#### SYNOPSIS AS INTRODUCED:

New Act

35 ILCS 5/203

35 ILCS 5/218 new

from Ch. 120, par. 2-203

Creates the Advance Science Zones Act. Sets forth procedures for the Department of Commerce and Economic Opportunity to certify areas in the State as Advanced Science Zones. Sets forth procedures for the administration of the Zones. Requires the Department to establish several programs with respect to the Zones including a loan program, a financial-assistance program, a transferable investment tax credit, and a tax-deduction certification. Contains other provisions. Amends the Illinois Income Tax Act to make corresponding changes concerning the tax credits and deductions. Effective immediately.

LRB095 07894 BDD 28056 b

FISCAL NOTE ACT  
MAY APPLY

HOME RULE NOTE  
ACT MAY APPLY

HOUSING  
AFFORDABILITY  
IMPACT NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Advanced Sciences Zone Act.

6 Section 2. Legislative intent and policy. The General  
7 Assembly finds and declares that the health, safety, and  
8 welfare of the people of this State are dependent upon the  
9 advancement of the medical science and technology; that the  
10 continual encouragement, development, growth, and expansion of  
11 the advanced science sector within the State requires a  
12 cooperative and continuous partnership between government and  
13 the advanced-sciences sector; and that there are certain areas  
14 in this State that need the particular attention of government,  
15 business, advanced sciences, and the citizens of Illinois to  
16 help attract investments in the advanced sciences for these  
17 areas, to directly aid the local community and its residents,  
18 and to expand the body of fundamental knowledge. Therefore, it  
19 is declared to be the purpose of this Act to explore ways and  
20 means of stimulating growth, stabilization, and retention of  
21 advanced sciences in the State by means of relaxed government  
22 controls and tax incentives in those areas.

1 Section 3. Definitions. As used in this Act:

2 "Advanced Sciences" includes the research, development, or  
3 production in the fields of biotechnology, alternative fuels,  
4 pharmaceutical, photonics, aerospace, software, environmental  
5 sources, advanced computing, advanced materials, medical  
6 device technology, health sciences, semiconductors,  
7 nanotechnology, and biomedicine and any businesses that  
8 support those technologies.

9 "Advanced-Sciences facility" means one or more facilities  
10 involved in:

11 (1) researching, developing, or manufacturing an  
12 advanced-science product or service or a related product or  
13 service; or

14 (2) promoting, supplying, or servicing a facility  
15 involved in item (1), if the business derives more than 50%  
16 of its gross receipts from those activities.

17 "Advanced Sciences Zone" means an area of the State  
18 certified by the Department as an Advanced Sciences Zone under  
19 to this Act.

20 "Department" means the Department of Commerce and Economic  
21 Opportunity.

22 "Designated Zone Organization" means an association or  
23 entity:

24 (1) the members of which are residents of the Advanced  
25 Sciences Zone;

26 (2) the board of directors of which is elected by the

1 members of the organization;

2 (3) that satisfies the criteria set forth in Section  
3 501(c) (3) or 501(c) (4) of the Internal Revenue Code; and

4 (4) that exists primarily for the purpose of performing  
5 within such area or zone for the benefit of the residents  
6 and businesses thereof any of the functions set forth in  
7 Section 8 of this Act.

8 "Qualified business" means a person carrying on a trade or  
9 business at an advanced sciences facility located within an  
10 advanced sciences zone. A person is a qualified business only  
11 on those parcels of land for which it has entered into a  
12 business-subsidy agreement, as required under this Act, with  
13 the appropriate local government unit in which the parcels are  
14 located; and

15 A person is a qualified business only if the person offers  
16 employer-sponsored medical insurance for all employees and  
17 pays its employees that work a minimum of 30 hours per week  
18 within the State a median annual wage equal to or greater than  
19 125% of the average annual wage paid to employees in the State.

20 A person that relocates an advanced-sciences facility from  
21 outside an advanced sciences zone into a zone is not a  
22 qualified business, unless the business:

23 (A) (i) increases full-time employment in the first  
24 full year of operation within the biotechnology and  
25 health sciences industry zone by at least 20 percent  
26 measured relative to the operations that were

1           relocated and maintains the required level of  
2           employment for each year the zone designation applies;  
3           or (ii) makes a capital investment in the property  
4           located within a zone equivalent to ten percent of the  
5           gross revenues of operation that were relocated in the  
6           immediately preceding taxable year; and

7           (B) enters a binding written agreement with the  
8           Department that: (i) pledges the business will meet the  
9           requirements of (b) (1); (ii) provides for repayment of  
10          all tax benefits enumerated in this Act to the business  
11          under the procedures this Act, if the requirements of  
12          (b) (1) are not met; and (iii) contains any other terms  
13          the commissioner determines appropriate.

14          "Person" includes an individual, corporation, partnership,  
15          limited liability company, association, or any other entity.

16          Section 4. Qualifications for Advanced Sciences Zones.

17          An area is qualified to become an Advanced Sciences Zone if  
18          it:

19          (1) is a contiguous area, but a zone area may exclude  
20          wholly surrounded territory within its boundaries;

21          (2) comprises a minimum of 0.5 square miles and not more  
22          than 12 square miles; and

23          (3) satisfies any additional criteria established by rule  
24          of the Department that are consistent with the purposes of this  
25          Act.

1 Section 5. Initiation of Advance Sciences Zones by a  
2 municipality or county.

3 (a) No area may be designated as an Advanced Sciences Zone  
4 except pursuant to an initiating ordinance adopted in  
5 accordance with this Section.

6 (b) A county or municipality may, by ordinance, designate  
7 an area within its jurisdiction as an Advanced Sciences Zone,  
8 subject to the certification of the Department in accordance  
9 with this Act, if:

10 (1) the area is qualified in accordance with Section 4;  
11 and

12 (2) the county or municipality has conducted at least  
13 one public hearing within the proposed zone area on the  
14 question of whether to create the zone, what local plans,  
15 tax incentives, and other programs should be established in  
16 connection with the zone, and what the boundaries of the  
17 zone should be; public notice of the hearing must be  
18 published in at least one newspaper of general circulation  
19 within the zone area, not more than 20 days nor less than 5  
20 days before the hearing.

21 (c) An ordinance designating an area as an Advanced  
22 Sciences Zone must set forth:

23 (1) a precise description of the area comprising the  
24 zone, either in the form of a legal description or by  
25 reference to roadways, lakes and waterways, and township,

1 county boundaries;

2 (2) a finding that the zone area meets the  
3 qualifications of Section 4;

4 (3) provisions for any tax incentives or reimbursement  
5 for taxes, which, pursuant to State and federal law, apply  
6 to businesses within the zone at the election of the  
7 designating county or municipality, and that do not apply  
8 generally throughout the county or municipality;

9 (4) a designation of the area as an Advanced Sciences  
10 zone, subject to the approval of the Department in  
11 accordance with this Act; and

12 (5) the duration or term of the Advanced Sciences Zone.

13 (d) This Section does not prohibit a municipality or county  
14 from extending additional tax incentives or reimbursement for  
15 businesses in Advanced Sciences Zones or throughout their  
16 territory by separate ordinance.

17 (e) No county or municipality located within the Metro East  
18 Mass Transit District that adopts an ordinance designating an  
19 area within the District as an Advanced Sciences Zone may  
20 provide for any exemption, deduction, credit, refund or  
21 abatement of any taxes imposed by the Metro East Mass Transit  
22 District Board of Trustees under Section 5.01 of the Local Mass  
23 Transit District Act.

24 (f) The Department shall encourage applications from all  
25 areas of the State and shall actively solicit applications from  
26 those counties with populations of less than 300,000.

1           Section 5.1. Application to the Department. A county or  
2 municipality that has adopted an ordinance designating an area  
3 as an Advanced Sciences Zone must make written application to  
4 the Department to have the proposed Advanced Sciences Zone  
5 certified by the Department as an Advanced Sciences Zone. The  
6 application must include:

7           (a) a certified copy of the ordinance designating the  
8 proposed zone;

9           (b) a map of the proposed Advanced Sciences Zone, showing  
10 existing streets and highways, the total area, and present use  
11 and conditions generally of the land and structures within  
12 those boundaries;

13           (c) evidence of community support and commitment from local  
14 government, local workforce investment boards, school  
15 districts, and other education institutions, business groups,  
16 and the public;

17           (d) an analysis, and any appropriate supporting documents  
18 and statistics, demonstrating that the proposed zone area is  
19 qualified in accordance with Section 4;

20           (e) a statement detailing any tax, grant, and other  
21 financial incentives or benefits and any programs, to be  
22 provided by the municipality or county to businesses within the  
23 zone, other than those provided in the designating ordinance,  
24 that are not provided generally throughout the municipality or  
25 county;

1 (f) a statement setting forth the economic development and  
2 planning objectives for the zone, including a description of  
3 the methods proposed to increase economic opportunity and  
4 expansion, facilitate infrastructure improvement, reduce the  
5 local regulatory burden, and identify job-training  
6 opportunities;

7 (g) a statement describing the functions, programs, and  
8 services to be performed by designated zone organizations  
9 within the zone;

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

14 (i) a transcript of all public hearings on the zone;

15 (j) in the case of a joint application, a statement  
16 detailing the need for a zone covering portions of more than  
17 one municipality or county and a description of the agreement  
18 between the joint applicants; and

19 (k) any additional information as the Department, by rule,  
20 may require.

21 Section 5.2. Department review of Advanced Sciences Zone  
22 applications.

23 (a) All applications that are to be considered and acted  
24 upon by the Department during a calendar year must be received  
25 by the Department no later than December 31 of the preceding

1 calendar year. Any application received on or after January 1  
2 of any calendar year must be held by the Department for  
3 consideration and action during the following calendar year.

4 (b) Upon receipt of an application from a county or  
5 municipality, the Department shall review the application to  
6 determine whether the designated area qualifies as an Advanced  
7 Sciences zone under Section 4 of this Act.

8 (c) No later than May 1, the Department shall notify all  
9 applicants of the Department's determination of the  
10 qualification of their respective designated Advanced Sciences  
11 Zone areas.

12 (d) If any such designated area is found to be qualified to  
13 be an Advanced Sciences Zone, the Department shall, no later  
14 than May 15, publish a notice in at least one newspaper of  
15 general circulation within the proposed zone area to notify the  
16 general public of the application and their opportunity to  
17 comment. The notice must include a description of the area and  
18 a brief summary of the application and must indicate locations  
19 where the applicant has provided copies of the application for  
20 public inspection. The notice must also indicate appropriate  
21 procedures for the filing of written comments from zone  
22 residents, business, civic, and other organizations and  
23 property owners to the Department.

24 (e) By July 1 of each calendar year, the Department shall  
25 either approve or deny all applications filed by December 31 of  
26 the preceding calendar year. If approval of an application

1 filed by December 31 of any calendar year is not received by  
2 July 1 of the following calendar year, the application is  
3 denied. If an application is denied, then the Department shall  
4 inform the county or municipality of the specific reasons for  
5 the denial.

6 (f) Preference in Designation. In determining which  
7 designated areas are approved and certified as Advanced  
8 Sciences Zones, the Department shall give preference to:

9 (1) Areas with high levels of poverty, unemployment,  
10 job and population loss, and general distress;

11 (2) Areas that have the widest support from the county  
12 or municipality seeking to have such areas designated as  
13 Advanced Sciences Zones, community residents, local  
14 business, labor, and neighborhood organizations and where  
15 there are plans for the disposal of publicly owned real  
16 property as described in Section 10;

17 (3) Areas for which a specific plan has been submitted  
18 to effect economic growth and expansion and neighborhood  
19 revitalization for the benefit of Zone residents and  
20 existing business through efforts that may include, but  
21 need not be limited to, a reduction of tax rates or fees,  
22 an increase in the level and efficiency of local services,  
23 and a simplification or streamlining of governmental  
24 requirements applicable to employers or employees, taking  
25 into account the resources available to the county or  
26 municipality seeking to have an area designated as an

1 Advanced Sciences Zone to make such efforts;

2 (4) Areas for which there is evidence of prior  
3 consultation between the county or municipality seeking  
4 designation of an area as an Advanced Sciences Zone and  
5 business, labor, and neighborhood organizations within the  
6 proposed Zone;

7 (5) Areas for which a specific plan has been submitted  
8 that will or may be expected to benefit zone residents and  
9 workers by increasing their ownership opportunities and  
10 participation in Advanced Sciences Zone development; and

11 (6) Areas in which specific governmental functions are  
12 to be performed by designated neighborhood organizations  
13 in partnership with the county or municipality seeking  
14 designation of an area as an Advanced Sciences Zone.

15 Section 5.3. Certification of Advanced Sciences Zones;  
16 effective date.

17 (a) The Approval of designated Advanced Sciences Zones must  
18 be made by the Department by certification of the designating  
19 ordinance. The Department shall promptly issue a certificate  
20 for each Advanced Sciences Zone upon its approval. The  
21 certificate must be signed by the Director, must make specific  
22 reference to the designating ordinance, which must be attached  
23 thereto, and must be filed in the office of the Secretary of  
24 State. A certified copy, or duplicate original, of the Advanced  
25 Sciences Zone Certificate must be recorded in the office of

1 recorder of deeds of the county in which the Advanced Sciences  
2 Zone lies.

3 (b) An Advanced Sciences Zone is be effective upon its  
4 certification. The Department shall transmit a copy of the  
5 certification to the Department of Revenue. Upon certification  
6 of an Advanced Sciences Zone, the terms and provisions of the  
7 designating ordinance are in effect, and may not be amended or  
8 repealed except in accordance with Section 9.

9 (c) An Advanced Sciences Zone remain in effect for 30  
10 calendar years, or for a lesser number of years specified in  
11 the certified designating ordinance. An Advanced Sciences Zone  
12 terminates at midnight of December 31 of the final calendar  
13 year of the certified term, except as provided in Section 9.

14 Section 5.4. Amendment and decertification of Advanced  
15 Sciences Zones.

16 (a) The terms of a certified Advanced Sciences Zone  
17 designating ordinance may be amended to:

18 (1) alter the boundaries of the Advanced Sciences Zone;

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

21 (3) alter the termination date of the zone;

22 (4) make technical corrections in the Advanced  
23 Sciences Zone designating ordinance, but such an amendment  
24 is not effective unless the Department issues an amended  
25 certificate for the Advanced Sciences Zone, approving the

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

18 (5) include an area within another municipality or  
19 county as part of the designated Advanced Sciences Zone if  
20 the requirements of Section 4 are complied with; or

21 (6) limit tax abatements under Section 5.4.1.

22 (b) The Department shall approve or disapprove a proposed  
23 amendment to a certified Advanced Sciences Zone within 90 days  
24 after its receipt of the application from the municipality or  
25 county. The Department may not approve changes in a Zone that  
26 are not in conformity with this Act or with other applicable

1 laws. If the Department issues an amended certificate for an  
2 Advanced Sciences Zone, then the amended certificate, together  
3 with the amended zone designating ordinance, must be filed,  
4 recorded, and transmitted as provided in Section 8.

5 (c) An Advanced Sciences Zone may be decertified by joint  
6 action of the Department and the designating county or  
7 municipality in accordance with this Section. The designating  
8 county or municipality shall conduct at least one public  
9 hearing within the zone prior to its adoption of an ordinance  
10 of decertification. The mayor of the designating municipality  
11 or the chairman of the county board of the designating county  
12 shall execute a joint decertification agreement with the  
13 Department. A decertification of an Advanced Sciences Zone is  
14 effective until at least 6 months after the execution of the  
15 decertification agreement, which must be filed in the office of  
16 the Secretary of State.

17 (d) An Advanced Sciences Zone may be decertified for cause  
18 by the Department in accordance with this Section. Prior to  
19 decertification:

20 (1) the Department shall notify the chief elected  
21 official of the designating county or municipality in  
22 writing of the specific deficiencies that provide cause for  
23 decertification;

24 (2) the Department shall place the designating county  
25 or municipality on probationary status for at least 6  
26 months, during which time corrective action may be achieved

1 in the Advanced Sciences Zone by the designating county or  
2 municipality; and

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

5 If such corrective action is not achieved during the  
6 probationary period, the Department shall issue an amended  
7 certificate signed by the Director decertifying the Advanced  
8 Sciences Zone, which must be filed in the office of the  
9 Secretary of State. A certified copy, or duplicate original, of  
10 the amended Advanced Sciences Zone certificate must be recorded  
11 in the office of recorder of the county in which the Advanced  
12 Sciences Zone lies and must be provided to the chief elected  
13 official of the designating county or municipality. The  
14 decertification of an Advanced Sciences Zone does not become  
15 effective until 60 days after the date of filing.

16 (e) In the event of a decertification, or an amendment  
17 reducing the length of the term or the area of an Advanced  
18 Sciences Zone or the adoption of an ordinance reducing or  
19 eliminating tax benefits in an Advanced Sciences Zone, all  
20 benefits previously extended within the Zone under this Act or  
21 under any other Illinois law providing benefits specifically to  
22 or within Advanced Sciences Zones remain in effect for the  
23 original stated term of the Advanced Sciences Zone, with  
24 respect to advanced-sciences business within the Zone on the  
25 effective date of such decertification or amendment, and with  
26 respect to individuals participating in urban homestead

1 programs under this Act.

2 (f) Except as otherwise provided in Section 5.4.1, with  
3 respect to business Advanced Sciences (or expansions thereof)  
4 that are proposed or under development within a Zone at the  
5 time of a decertification or an amendment reducing the length  
6 of the term of the Zone, or excluding from the Zone area the  
7 site of the proposed business, or an ordinance reducing or  
8 eliminating tax benefits in a Zone, are entitled to the  
9 benefits previously applicable within the Zone for the original  
10 stated term of the Zone, if the business establishes:

11 (1) that the proposed business or expansion has been  
12 committed to be located within the Zone;

13 (2) that substantial and binding financial obligations  
14 have been made towards the development of the business  
15 within the Zone; and

16 (3) that these commitments have been made in reasonable  
17 reliance on the benefits and programs that were to have  
18 applied to the business by reason of the Zone, including,  
19 in the case of a reduction in term of a zone, the original  
20 length of the term.

21 In declaratory judgment actions under this subsection (f),  
22 the Department and the designating municipality or county are  
23 necessary parties.

24 Section 5.4.1. Adoption of tax increment financing.

25 (a) If (i) a redevelopment project area is, will be, or has

1 been created by a municipality under Division 74.4 of the  
2 Illinois Municipal Code, (ii) the redevelopment project area  
3 contains property that is located in an Advanced Sciences Zone,  
4 (iii) the municipality adopts an amendment to the Advanced  
5 Sciences zone designating ordinance pursuant to Section 5.4 of  
6 this Act specifically concerning the abatement of taxes on  
7 property located within a redevelopment project area created  
8 pursuant to Division 74.4 of the Illinois Municipal Code, and  
9 (iv) the Department certifies the ordinance amendment, then the  
10 property that is located in both the Advanced Sciences Zone and  
11 the redevelopment project area is not eligible for the  
12 abatement of taxes under Section 18-170 of the Property Tax  
13 Code.

14 No business or expansion or individual, however, that has  
15 constructed a new improvement or renovated or rehabilitated an  
16 existing improvement and has received an abatement on the  
17 improvement under Section 18-170 of the Property Tax Code may  
18 be denied any benefit previously extended within the zone under  
19 this Act or under any other Illinois law providing benefits  
20 specifically to or within Advanced Sciences Zones. Moreover, if  
21 the business or individual presents evidence to the  
22 municipality, within 30 days after the adoption by the  
23 municipality of an amendment to the designating ordinance, the  
24 sufficiency of which must be determined by findings of the  
25 corporate authorities made within 30 days after the receipt of  
26 such evidence by the municipality, that before the date of the

1 notice of the public hearing provided by the municipality  
2 regarding the amendment to the designating ordinance (i) the  
3 business or expansion or individual was committed to locate  
4 within the Advanced Sciences Zone, (ii) substantial and binding  
5 financial obligations were made towards the development of the  
6 business, and (iii) those commitments were made in reasonable  
7 reliance on the benefits and programs that were applicable to  
8 the business or individual by reason of the Advanced Sciences  
9 Zone, then the business or expansion or individual may not be  
10 denied any benefit previously extended within the zone under  
11 this Act or under any other Illinois law providing benefits  
12 specifically to or within Advanced Sciences zones.

13 (b) This Section applies to all property located within  
14 both a redevelopment project area adopted under Division 74.4  
15 of the Illinois Municipal Code and an Advanced Sciences Zone  
16 even if the redevelopment project area was adopted before the  
17 effective date of this Act.

18 (c) In declaratory judgment actions under this Section, the  
19 Department and the designating municipality are necessary  
20 parties.

21 Section 6. Powers and duties of the Department.

22 The Department shall administer this Act and has the  
23 following powers and duties:

24 (1) To monitor the implementation of this Act and  
25 submit reports evaluating the effectiveness of the program

1 and any suggestions for legislation to the Governor and  
2 General Assembly by October 1 of every year preceding a  
3 regular Session of the General Assembly and to annually  
4 report to the General Assembly initial and current  
5 population, employment, per capita income, number of  
6 business establishments, and dollar value of new  
7 construction and improvements for each Advanced Sciences  
8 Zone.

9 (2) To adopt all necessary rules to carry out the  
10 purposes of this Act in accordance with The Illinois  
11 Administrative Procedure Act.

12 (3) To assist municipalities and counties in obtaining  
13 federal status as an Advanced Sciences Zone.

14 Section 7. State incentives regarding public services and  
15 physical infrastructure.

16 (a) This Act does not restrict tax-incentive financing  
17 pursuant to the Tax Increment Allocation Redevelopment Act.

18 (b) Priority in the use of industrial-development bonds  
19 issued by the Illinois Finance Authority must be given to  
20 businesses located in an Advanced Sciences Zone.

21 (c) The State Treasurer is authorized and encouraged to  
22 place deposits of State funds with financial institutions doing  
23 business in an Advanced Sciences Zone.

24 Section 8. Zone administration. The administration of an

1 Advanced Sciences Zone is under the jurisdiction of the  
2 designating municipality or county. Each designating  
3 municipality or county shall, by ordinance, designate a Zone  
4 Administrator for the certified zones within its jurisdiction.  
5 A Zone Administrator must be an officer or employee of the  
6 municipality or county. The Zone Administrator is the liaison  
7 between the designating municipality or county, the  
8 Department, and any designated zone organizations within zones  
9 under his or her jurisdiction.

10 A designating municipality or county may designate one or  
11 more organizations qualified under subsection (d) of Section 3  
12 to be designated zone organizations for purposes of this Act.  
13 The municipality or county may, by ordinance, delegate  
14 functions within an Advanced Sciences Zone to one or more  
15 designated zone organizations in the zones.

16 Subject to the necessary governmental authorizations,  
17 designated zone organizations may provide the following  
18 services or perform the following functions in coordination  
19 with the municipality or county:

20 (a) Provide or contract for provision of public services  
21 including, but not limited to:

22 (1) establishment of crime watch patrols within zone  
23 neighborhoods;

24 (2) establishment of volunteer day care centers;

25 (3) organization of recreational activities for zone  
26 area youth;

- 1 (4) garbage collection;
- 2 (5) street maintenance and improvements;
- 3 (6) bridge maintenance and improvements;
- 4 (7) maintenance and improvement of water and sewer
- 5 lines;
- 6 (8) energy conservation projects;
- 7 (9) health and clinic services;
- 8 (10) drug abuse programs;
- 9 (11) senior citizen assistance programs;
- 10 (12) park maintenance;
- 11 (13) rehabilitation, renovation, and operation and
- 12 maintenance of low and moderate income housing; and
- 13 (14) other types of public services as provided by law
- 14 or regulation.

15 (b) Exercise authority for the enforcement of any code,  
16 permit, or licensing procedure within an Advanced Sciences  
17 Zone.

18 (c) Provide a forum for business, labor, and government  
19 action on zone innovations.

20 (d) Apply for regulatory relief as provided in Section 8 of  
21 this Act.

22 (e) Receive title to publicly owned land.

23 (f) Perform any other functions that the responsible  
24 government entity may deem appropriate, including offerings  
25 and contracts for insurance with businesses within the Zone.

26 (g) Agree with local governments to provide any public

1 services within the zones by contracting with private firms and  
2 organizations, where feasible and prudent.

3 (h) Solicit and receive contributions to improve the  
4 quality of life in the Advanced Sciences Zone.

5 Section 11. Income tax deduction

6 (a) A taxpayer may receive a deduction against income  
7 subject to State taxes for a contribution to a designated zone  
8 organization if the project for which the contribution is made  
9 has been specifically approved by the designating municipality  
10 or county and by the Department.

11 (b) Any designated zone organization seeking to have a  
12 project approved for contribution must submit an application to  
13 the Department describing the nature and benefit of the project  
14 and its potential contributors. The application must address  
15 how the following criteria will be met:

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

18 (2) The project must involve the residents of the area  
19 in planning and implement the project.

20 (3) The project's lack of sufficient resources.

21 (4) The designated zone organization must be fiscally  
22 responsible for the project.

23 (c) The project must enhance the Advanced Sciences Zone in  
24 one of the following ways:

25 (1) by creating permanent jobs;

- 1           (2) by physically improving the housing stock;  
2           (3) stimulating neighborhood business activity; or  
3           (4) by preventing crime.

4           (d) If the designated zone organization demonstrates its  
5 ability to meet the criteria in subsection (b), and will  
6 enhance the neighborhood in one or more of the ways listed in  
7 subsection (c), then the Department shall approve the  
8 organization's proposed projects and specify the amount of  
9 contributions that it is eligible to receive for the project.  
10 Comments from State elected officials and county and municipal  
11 officials in which all or part of the Advanced Sciences Zone  
12 are located or in which the project is proposed to be located  
13 must be solicited by the Department in making its decision.

14           (e) Within 45 days after the receipt of an application, the  
15 Department shall give notice to the applicant as to whether the  
16 application has been approved or disapproved. If the Department  
17 disapproves the application, then it shall specify the reasons  
18 for this decision and allow 60 days for the applicant to amend  
19 and resubmit its application. The Department shall provide  
20 assistance upon request to applicants. The Department must  
21 approve or disapprove resubmitted applications within 30 days  
22 after submission. Those resubmitted applications satisfying  
23 initial Department objectives must be approved unless  
24 reasonable circumstances warrant disapproval.

25           (f) On an annual basis, the designated zone organization  
26 shall furnish a statement to the Department on the programmatic

1 and financial status of any approved project and an audited  
2 financial statement of the project.

3 (g) For any project that is approved and for which there is  
4 a specified amount of contributions that the designated Zone  
5 Organization may receive for approved project as provided in  
6 subsection (d) of this Section, the designated zone  
7 organization shall provide to the Department any information  
8 necessary to determine the eligibility of a contribution to the  
9 project for a deduction under Section 203 of the Illinois  
10 Income Tax Act. The Department shall certify to the Department  
11 of Revenue the taxpayers eligible for and the amounts of  
12 contributions which those taxpayers may claim as a deduction  
13 under Section 203 of the Illinois Income Tax Act. The total of  
14 all actual contributions approved by the Department for  
15 deductions under this Section may not exceed \$15,400,000 in any  
16 one calendar year.

17 Section 11.1. Notification of business cessation. Any  
18 business located within the Advanced Sciences Zone that has  
19 received tax credits or exemptions, regulatory relief, or any  
20 other benefits under this Act shall notify the Department and  
21 the county and municipal officials in which the Advanced  
22 Sciences Zone is located within 60 days after the cessation of  
23 any business operations conducted within the Advanced Sciences  
24 Zone.

1           Section 12-1. Sections 12-1 through 12-10 of this Act may  
2 be cited as the Advanced Sciences Zone Loan Law.

3           Section 12-2. Definitions. Unless the context clearly  
4 requires otherwise:

5           "Financial institution" means a trust company, a bank, a  
6 savings bank, a credit union, an investment bank, a broker, an  
7 investment trust, a pension fund, a building and loan  
8 association, a savings and loan association, an insurance  
9 company, or any venture capital company that is authorized to  
10 do business in the State.

11           "Participating lender" means financial institution  
12 approved by the Department that assumes a portion of the  
13 financing for a business project.

14           "Business" means a for-profit, legal entity located in an  
15 Advanced Sciences Zone including, but not limited to, any sole  
16 proprietorship, partnership, corporation, joint venture,  
17 association, or cooperative.

18           "Loan" means an agreement or contract to provide a loan or  
19 other financial aid to a business.

20           "Project" means any specific economic development activity  
21 of a commercial, industrial, manufacturing, agricultural,  
22 scientific, service, or other business in an Advanced Sciences  
23 Zone, the result of which yields an increase in jobs and may  
24 include the purchase or lease of machinery and equipment, the  
25 lease or purchase of real property or funds for infrastructure

1 necessitated by site preparation, building construction, or  
2 related purposes. "Project" does not include refinancing  
3 current debt.

4 Section 12-3. Powers and duties. The Department has the  
5 power to:

6 (a) Provide loans from the funds appropriated to a business  
7 undertaking a project and accept mortgages or other evidences  
8 of indebtedness or security of such business.

9 (b) Enter into agreements, accept funds or grants, and  
10 cooperate with agencies of the federal government, local units  
11 of government, and local regional economic development  
12 corporations or organizations for the purposes of carrying out  
13 this Law.

14 (c) Enter into contracts, letters of credit, or any other  
15 agreements or contracts with financial institutions necessary  
16 or desirable to carry out the purposes of this Law. Any such  
17 agreement or contract may include, without limitation, terms  
18 and provisions relating to a specific project, such as loan  
19 documentation, review and approval procedures, organization  
20 and servicing rights, default conditions, and other program  
21 aspects.

22 (d) Fix, determine, charge, and collect any premiums, fees,  
23 charges, costs and expenses, including application fees,  
24 commitment fees, program fees, financing charges, or  
25 publication fees in connection with its activities under this

1 Law.

2 (e) Establish application, notification, contract, and  
3 other procedures, rules, or regulations deemed necessary and  
4 appropriate.

5 (f) Subject to the provisions of any contract with another  
6 person and consent to the modification or restructuring of any  
7 loan agreement to which the Department is a party.

8 (g) Take any actions that are necessary or appropriate to  
9 protect the State's interest in the event of bankruptcy,  
10 default, foreclosure, or noncompliance with the terms and  
11 conditions of financial assistance or participation provided  
12 under this Act, including the power to sell, dispose, lease, or  
13 rent, upon terms and conditions determined by the Director to  
14 be appropriate, real or personal property that the Department  
15 may receive as a result thereof.

16 (h) Acquire and accept by gift, grant, purchase, or  
17 otherwise, but not by condemnation, fee simple title, or such  
18 lesser interest as may be desired, in land, to improve or  
19 arrange for the improvement of that land for industrial or  
20 commercial site development purposes, and to lease or convey  
21 such land or interest in land so acquired and so improved,  
22 including sale and conveyance subject to a mortgage, for such  
23 price, upon such terms, and at such time as the Department may  
24 determine. Prior to exercising his or her authority under this  
25 subsection, the Director must find that other means of  
26 financing and developing any such project are not reasonably

1 available and that such action is consistent with the purposes  
2 and policies of this Law.

3 (i) Exercise such other powers as are necessary or  
4 incidental to the foregoing.

5 Section 12-4. Loans. Any loan made under this Law:

6 (a) may be made only if a participating lender, or other  
7 funding source including the applicant, also provides a portion  
8 of the financing with respect to the project and only if the  
9 Department determines, on the basis of all the information  
10 available to it, that the project would not be undertaken in  
11 Illinois unless the loan is provided. Financing from another  
12 funding source may be in the form of a loan, letter of credit,  
13 guarantee, loan participation, bond purchase, direct cash  
14 payment or other form approved by the Department.

15 (b) may finance no more than 25% of the total amount of any  
16 single project and may only be approved for amounts not to  
17 exceed \$2,000,000 for any single project, unless waived by the  
18 Director upon a finding that a waiver is appropriate to  
19 accomplish the purposes of this Law.

20 (c) must be protected by adequate security satisfactory to  
21 the Department to secure payment of the loan agreement.

22 (d) must be in any principal amount and form and contain  
23 any terms and provisions with respect to property insurance,  
24 repairs, alterations, payment of taxes and assessments,  
25 delinquency charges, default remedies, additional security,

1 and other matters that the Department determines is adequate to  
2 protect the public interest.

3 (e) must include provisions to call the loan agreement as  
4 due and payable if the project is not completed, if the project  
5 fails to generate anticipated employment opportunities, or if  
6 the business ceases to operate the project.

7 (f) may be made only after the Department has determined  
8 that the loan will cause a project to be undertaken that has  
9 the potential to create substantial employment in relation to  
10 the principal amount of the loan.

11 (g) may be made only with a business that has certified the  
12 project is a new plant start-up or expansion and is not a  
13 relocation of an existing business from another site in  
14 Illinois unless that relocation results in substantial  
15 employment growth.

16 Section 12-5. Loan applications. Applications for loans  
17 must be submitted to the Department on forms and subject to  
18 filing fees prescribed by the Department. The Department is not  
19 prohibited from soliciting such applications. The Department  
20 shall conduct any investigation and obtain any information  
21 concerning the business as is necessary and diligent to  
22 complete a loan agreement. The Department's investigation must  
23 include facts about the company's history, job opportunities,  
24 stability of employment, past and present condition and  
25 structure, actual and pro-forma income statements, present and

1 future market prospects, management qualifications, and any  
2 other aspect material to the financing request.

3 After consideration of this information and after any other  
4 action that is deemed appropriate, the Department shall approve  
5 or deny the application. If the Department approves the  
6 application, its approval must specify the amount of funds to  
7 be provided and the loan agreement provisions. Department shall  
8 promptly notify the business of its approval or denial of the  
9 application.

10 Section 12-6. Advanced Sciences Zone Loan Fund.

11 (a) The Advanced Sciences Zone Loan Fund is created as a  
12 special fund in the State treasury. The Department is  
13 authorized to make loans from the Fund for the purposes  
14 established under this Law. The State Treasurer has custody of  
15 the Fund and may invest in securities constituting direct  
16 obligations of the United States Government, in obligations the  
17 principal of and interest on which are guaranteed by the United  
18 States Government, or in certificates of deposit of any State  
19 or national bank that are fully secured by obligations  
20 guaranteed as to principal and interest by the United States  
21 Government. The purpose of the Fund is to offer loans to  
22 finance firms considering the location of a proposed business  
23 in a certified Advanced Sciences Zone and to provide financing  
24 to carry out the purposes and provisions of paragraph (h) of  
25 Section 12-3 of this Law. This financing must be in the form of

1 a loan, mortgage, or other debt instrument. All loans must be  
2 conditioned on the project receiving financing from  
3 participating lenders or other sources. Loan proceeds must be  
4 available for project costs associated with an expansion of  
5 business capacity and employment, except for debt refinancing.  
6 New ventures shall be considered only if the entity is  
7 protected with adequate security with regard to its financing  
8 and operation. The limitations and conditions with respect to  
9 the use of this Fund do not apply in carrying out the purposes  
10 and provisions of paragraph (h) of Section 12-3 of this Law.

11 (b) Deposits in the Fund include, but are not limited to:

12 (1) All receipts, including principal and interest  
13 payments, royalties or other payments, from any loan made  
14 by the Department under this Law.

15 (2) All proceeds of assets of whatever nature received  
16 by the Department as a result of default and delinquency  
17 with respect to loans made under this Law, including  
18 proceeds from the sale, disposal, lease or rental of real  
19 or personal property which the Department may receive as a  
20 result thereof.

21 (3) Any appropriations, grants or gifts made to the  
22 Fund.

23 (4) Any income received from interest on investments of  
24 amounts from the Fund not currently needed to meet the  
25 obligations of the Fund.

1           Section 12-7. Construction. Nothing in this Law may be  
2 construed as creating any rights of a competitor of an approved  
3 borrower or any applicant whose application is denied by the  
4 Department to challenge any application which is accepted by  
5 the Department and any loan or other agreement executed in  
6 connection therewith.

7           Section 12-8. Confidentiality. Any documentary materials  
8 or data made or received by any member, agent, or employee of  
9 the Department is deemed to be confidential and is not a public  
10 record to the extent that such materials or data consist of  
11 trade secrets, commercial, or financial information regarding  
12 the operation of any business conducted by an applicant for or  
13 recipient of any form of assistance under this Law or  
14 information regarding the competitive position of such  
15 business in a particular field of endeavor.

16           Section 12-9. Report. On January 1 of each year, the  
17 Department shall report on its operation of the Fund for the  
18 preceding fiscal year to the Governor and the General Assembly.

19           Section 12-10. Federal programs. The Department is  
20 authorized to accept and expend federal moneys pursuant to this  
21 Law except that terms and conditions hereunder that are  
22 inconsistent with or prohibited by the federal authorization  
23 under which such moneys are made available do apply with

1 respect to the expenditure of such moneys.

2 Section 13. Advanced sciences investment tax credit.

3 (a) Any taxpayer primarily engaged in advanced sciences  
4 activities with an Advanced Sciences Zone that pays its  
5 employees that work a minimum of 30 hours per week within the  
6 State a median annual wage equal or greater than 125% of the  
7 average annual wage paid by all employers in the State to  
8 employees that work a minimum of 30 hours per week within the  
9 State and that provides benefits typical to the biotechnology  
10 industry, is allowed a credit of 10% of the cost or other basis  
11 for federal tax purposes of tangible personal property and  
12 other tangible property, including buildings and structural  
13 components of buildings acquired, constructed, reconstructed,  
14 or leased with situs in Illinois and principally used in  
15 advanced science activities after December 31, 2007.

16 For the purposes of this subsection:

17 "Principally engaged in advanced sciences activities"  
18 means the company's sales of advanced sciences products or  
19 costs related to the development of advanced  
20 sciences-products constitute at least 50% of its overall  
21 receipts or its overall costs respectively.

22 "Tangible personal property" and "other tangible  
23 property" includes buildings and structural components of  
24 buildings acquired, constructed, reconstructed, or leased  
25 with situs in Illinois and principally used in the

1 production of advanced sciences products:

2 (1) is depreciable pursuant to 26 USC. Section 167,

3 (2) has a useful life of 4 years or more, and

4 (3) is acquired by purchase as defined in 26 U.S.C.  
5 § 179(d), or

6 (4) is acquired by lease based on the fair market  
7 value of the property at the inception of the lease  
8 times the portion of the depreciable life of the  
9 property represented by the term of the lease,  
10 excluding renewal options, for a term of twenty (20)  
11 years; and

12 (5) does not include vehicles or furniture.

13 "Employees" means those that work a minimum of 30 hours  
14 per week within the State with benefits typical to the  
15 advanced sciences industry.

16 "Wages" means all remuneration paid for personal  
17 services, including commissions and bonuses and the cash  
18 value of all remuneration paid in any medium other than  
19 cash and all other remuneration which is defined as taxable  
20 wages by the Internal Revenue Service, as certified by the  
21 department of labor and training.

22 (b) Except as provided under subsection (c), if the amount  
23 of credit allowable for any taxable year is less than the  
24 amount of credit available to the taxpayer, then any amount of  
25 credit not used in the taxable year will be available the  
26 following year or years not to exceed 15 years and may be

1 deducted from the taxpayer's tax for the year or years.

2 (c) The credit may be extended beyond 7 years only in a  
3 year in which:

4 (1) The company maintains an average quarterly number  
5 of employees for each calendar year that is 9.5% greater  
6 than average quarter number of employees in the 4th year of  
7 the initial credit;

8 (2) The company's average quarterly median wage is not  
9 less than the company's average of its quarterly median  
10 wage for the 3 previous calendar years;

11 (3) The company pays its employees a median annual wage  
12 equal or greater than 125% of the average annual wage paid  
13 by all employers in the State. ; and

14 (4) The Department certifies to the Department of  
15 Revenue that the criteria in (1) - (3) have been met.

16 Unused credits after the 7th year are forfeited permanently  
17 if any of these wage and employment criteria are unmet after  
18 the 7th year.

19 The taxpayer may determine the order in which the credits  
20 generated in different tax years are used, provided that  
21 credits available for more than 7 years may not reduce current  
22 year liability by more than 75%.

23 Section 14. Advanced Sciences Zone Financial Assistance  
24 Program.

25 (a) The Department shall establish an Advanced Sciences

1 Zone Financial Assistance Program to established a tax benefit  
2 certificate transfer program to allow persons in designated  
3 Advanced Sciences Zones in this State with unused amounts of  
4 tax credits otherwise allowable that cannot be applied for the  
5 credit's tax year due to the limitations and unused net  
6 operating loss carryover, to surrender those tax benefits for  
7 use by other taxpayers in this State, provided that the  
8 taxpayer receiving the surrendered tax benefits is not  
9 affiliated with a corporation that is surrendering its tax  
10 benefits under the Program. For the purposes of this Section,  
11 the test of affiliation is whether the same entity directly or  
12 indirectly owns or controls 5% or more of the voting rights or  
13 5% or more of the value of all classes of stock of both the  
14 taxpayer receiving the benefits and a corporation that is  
15 surrendering the benefits. The tax benefits may be used on the  
16 tax returns to be filed by those taxpayers in exchange for  
17 private financial assistance to be provided by the corporate  
18 taxpayer that is the recipient of the tax benefit certificate  
19 to assist in the funding of costs incurred by the new or  
20 expanding emerging technology and biotechnology company.

21 (b) The Department, in cooperation with the Department of  
22 Revenue, shall review and approve applications by new or  
23 expanding advanced sciences entities in this State with unused  
24 but otherwise allowable carryover of research and development  
25 tax credits, and unused but otherwise allowable net operating  
26 loss carryover pursuant, to surrender those tax benefits in

1 exchange for private financial assistance to be made by the  
2 business taxpayer that is the recipient of the corporation  
3 business tax benefit certificate in an amount equal to at least  
4 75% of the amount of the surrendered tax benefit. Provided that  
5 the amount of the surrendered tax benefit for a surrendered  
6 research and development tax credit carryover is the amount of  
7 the credit, and provided that the amount of the surrendered tax  
8 benefit for a surrendered net operating loss carryover is the  
9 amount of the loss multiplied by the new or expanding advanced  
10 sciences company's anticipated allocation factor for the tax  
11 year in which the benefit is transferred and subsequently  
12 multiplied by the corporation business tax rate provided  
13 pursuant. The Department is authorized to approve the transfer  
14 of no more than \$50,000,000 each State fiscal year. If the  
15 total amount of transferable tax benefits requested to be  
16 surrendered by approved applicants exceeds \$50,000,000 for  
17 State fiscal year, the Department, in cooperation with the  
18 Department of Revenue, may not approve the transfer of more  
19 than \$50,000,000 for State fiscal and shall allocate the  
20 transfer of tax benefits by approved companies using the  
21 following method:

22 (1) an eligible applicant with \$250,000 or less of  
23 transferable tax benefits is authorized to surrender the  
24 entire amount of its transferable tax benefits;

25 (2) an eligible applicant with more than \$250,000 of  
26 transferable tax benefits is authorized to surrender a

1 minimum of \$250,000 of its transferable tax benefits;

2 (3) an eligible applicant with more than \$250,000 of  
3 transferable tax benefits that was approved to surrender  
4 tax benefits in the prior fiscal year is authorized to  
5 surrender a minimum of 50% of the transferable tax benefits  
6 surrendered in the prior fiscal year or \$250,000, whichever  
7 is greater, provided that the amount of transferable tax  
8 benefits authorized may not exceed the applicant's  
9 transferable tax benefits for the current fiscal year;

10 (4) an eligible applicant with more than \$250,000 is  
11 also authorized to surrender additional transferable tax  
12 benefits determined by multiplying the applicant's  
13 transferable tax benefits less the minimum transferable  
14 tax benefits that company is authorized to surrender under  
15 paragraph (2) or (3) of this subsection by a fraction, the  
16 numerator of which is the total amount of transferable tax  
17 benefits that the authority is authorized to approve less  
18 the total amount of transferable tax benefit approved under  
19 paragraphs (1), (2), (3), and (5) of this subsection and  
20 the denominator of which is the total amount of  
21 transferable tax benefits requested to be surrendered by  
22 all eligible applicants less the total amount of  
23 transferable tax benefits approved under paragraphs (1),  
24 (2), (3), and (5) of this subsection.

25 For purposes of this section transferable tax benefits  
26 include an eligible applicant's unused but otherwise allowable

1 carryover of net operating losses multiplied by the applicant's  
2 anticipated allocation factor for the tax year in which the  
3 benefit is transferred and subsequently multiplied by the  
4 corporation business tax rate as provided plus the total amount  
5 of the applicant's unused but otherwise allowable carryover of  
6 research and development tax credits. An eligible applicant's  
7 transferable tax benefits are limited to net operating losses  
8 and research and development tax credits that the applicant  
9 requests to surrender in its application to the authority and  
10 may not, in total, exceed the maximum amount of tax benefits  
11 that the applicant is eligible to surrender.

12 The maximum lifetime value of surrendered tax benefits that  
13 a corporation is permitted to surrender pursuant to the program  
14 is \$10,000,000.

15 Applications must be received on or before June 30 for each  
16 State fiscal year.

17 The private financial assistance shall be used to fund  
18 expenses incurred in connection with the operation of the new  
19 or expanding advanced sciences company in the State, including  
20 but not limited to the expenses of fixed assets, such as the  
21 construction and acquisition and development of real estate,  
22 materials, start-up, tenant fit-out, working capital,  
23 salaries, research and development expenditures, and any other  
24 expenses determined by the Department to be necessary to carry  
25 out the purposes of the Advanced Sciences Zone.

26 (c) The Department, in cooperation with the Department of

1 Revenue, shall review and approve applications by taxpayers to  
2 acquire surrendered tax benefits approved pursuant to  
3 subsection (b) of this Section, which must be issued in the  
4 form of business tax benefit transfer certificates, in exchange  
5 for private financial assistance to be made by the taxpayer in  
6 an amount equal to at least 75% of the amount of the  
7 surrendered tax benefit of an advanced sciences company in the  
8 State. A business tax benefit transfer certificate may not be  
9 issued unless the applicant certifies that, as of the date of  
10 the exchange of the business tax benefit certificate, it is  
11 operating as a new or expanding advanced sciences company and  
12 has no current intention to cease operating as a new or  
13 expanding advanced sciences company.

14 The private financial assistance shall assist in funding  
15 expenses incurred in connection with the operation of the new  
16 or advanced sciences company in the State, including but not  
17 limited to the expenses of fixed assets, such as the  
18 construction and acquisition and development of real estate,  
19 materials, start-up, tenant fit-out, working capital,  
20 salaries, research and development expenditures, and any other  
21 expenses determined by the Department to be necessary to carry  
22 out the purposes of the Advanced Sciences Zone Act.

23 (d) The Department shall coordinate the applications for  
24 surrender and acquisition of unused but otherwise allowable tax  
25 benefits pursuant to this Section in a manner that can best  
26 stimulate and encourage the extension of private financial

1 assistance to new and expanding advanced sciences in this  
2 State. The applications shall be submitted and the authority  
3 shall approve or disapprove the applications.

4 The Department shall develop criteria for the approval or  
5 disapproval of applications. Such criteria shall include, but  
6 need not be limited to, an evaluation of the advanced sciences  
7 company's actual or potential scientific and technological  
8 viability, a determination that the advanced sciences  
9 company's principal products or services are sufficiently  
10 innovative to provide a competitive advantage, a determination  
11 that the proposed financial assistance will result in  
12 significant growth in permanent, full-time employment in the  
13 State, a determination made by the authority that the advanced  
14 sciences company does not have sufficient resources to operate  
15 in the short term or cannot secure financial assistance from  
16 venture capital, stock issuance, product sales revenue, a  
17 parent corporation or other affiliates, bank or any other  
18 method of obtaining capital, and a determination that the  
19 financial assistance provided pursuant to this Act  
20 demonstrates the prospect of a significant positive change in  
21 the applicant's net income. The Department shall establish the  
22 weight of importance to be given each criterion used in its  
23 application approval process. No application shall be approved  
24 in which the advanced sciences company: (1) has demonstrated  
25 positive net income in any of the 3 previous 5 full years of  
26 ongoing operations as determined on its financial statements;

1 (2) has demonstrated a ratio in excess of 110% or greater of  
2 operating revenues divided by operating expenses in any of the  
3 3 previous 5 full years of operations as determined on its  
4 financial statements; or (3) is directly or indirectly at least  
5 a majority of the company is owned or controlled by another  
6 corporation that has demonstrated positive net income in any of  
7 the 3 previous 5 full years of ongoing operations as determined  
8 on its financial statements or is part of a consolidated group  
9 of affiliated corporations, as filed for federal income tax  
10 purposes, that in the aggregate has demonstrated positive net  
11 income in any of the 3 previous 5 full years of ongoing  
12 operations as determined on its combined financial statements.

13 Once an application has been approved, the applicant shall  
14 be permitted to surrender, subject to the limitations set forth  
15 in subsection (b) of this Section and the net operating loss  
16 carryover tax credit carryover time periods, the surrendered  
17 tax benefits that are requested in the application regardless  
18 of whether the applicant continues to meet the eligibility  
19 criteria set forth in the act in subsequent years.

20 The Department shall require a business taxpayer that  
21 acquires a business tax benefit certificate to enter into a  
22 written agreement with the advanced sciences company  
23 concerning the terms and conditions of the private financial  
24 assistance made in exchange for the certificate.

25 Section 905. The Illinois Income Tax Act is amended by

1 changing Section 203 and by adding Section 218 as follows:

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

3 Sec. 203. Base income defined.

4 (a) Individuals.

5 (1) In general. In the case of an individual, base  
6 income means an amount equal to the taxpayer's adjusted  
7 gross income for the taxable year as modified by paragraph  
8 (2).

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

12 (A) An amount equal to all amounts paid or accrued  
13 to the taxpayer as interest or dividends during the  
14 taxable year to the extent excluded from gross income  
15 in the computation of adjusted gross income, except  
16 stock dividends of qualified public utilities  
17 described in Section 305(e) of the Internal Revenue  
18 Code;

19 (B) An amount equal to the amount of tax imposed by  
20 this Act to the extent deducted from gross income in  
21 the computation of adjusted gross income for the  
22 taxable year;

23 (C) An amount equal to the amount received during  
24 the taxable year as a recovery or refund of real  
25 property taxes paid with respect to the taxpayer's

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

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

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

22 (D-10) For taxable years ending after December 31,  
23 1997, an amount equal to any eligible remediation costs  
24 that the individual deducted in computing adjusted  
25 gross income and for which the individual claims a  
26 credit under subsection (1) of Section 201;

1           (D-15) For taxable years 2001 and thereafter, an  
2 amount equal to the bonus depreciation deduction taken  
3 on the taxpayer's federal income tax return for the  
4 taxable year under subsection (k) of Section 168 of the  
5 Internal Revenue Code;

6           (D-16) If the taxpayer sells, transfers, abandons,  
7 or otherwise disposes of property for which the  
8 taxpayer was required in any taxable year to make an  
9 addition modification under subparagraph (D-15), then  
10 an amount equal to the aggregate amount of the  
11 deductions taken in all taxable years under  
12 subparagraph (Z) with respect to that property.

13           If the taxpayer continues to own property through  
14 the last day of the last tax year for which the  
15 taxpayer may claim a depreciation deduction for  
16 federal income tax purposes and for which the taxpayer  
17 was allowed in any taxable year to make a subtraction  
18 modification under subparagraph (Z), then an amount  
19 equal to that subtraction modification.

20           The taxpayer is required to make the addition  
21 modification under this subparagraph only once with  
22 respect to any one piece of property;

23           (D-17) For taxable years ending on or after  
24 December 31, 2004, an amount equal to the amount  
25 otherwise allowed as a deduction in computing base  
26 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 that 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 under Sections 951 through 964  
12 of the Internal Revenue Code and amounts included in  
13 gross income under Section 78 of the Internal Revenue  
14 Code) with respect to the stock of the same person to  
15 whom the interest was paid, accrued, or incurred.

16 This paragraph shall not apply to the following:

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

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

1 following:

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

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

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

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

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

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

1 Section 78 of the Internal Revenue Code) with respect  
2 to the stock of the same person to whom the intangible  
3 expenses and costs were directly or indirectly paid,  
4 incurred, or accrued. The preceding sentence does not  
5 apply to the extent that the same dividends caused a  
6 reduction to the addition modification required under  
7 Section 203(a)(2)(D-17) of this Act. As used in this  
8 subparagraph, the term "intangible expenses and costs"  
9 includes (1) expenses, losses, and costs for, or  
10 related to, the direct or indirect acquisition, use,  
11 maintenance or management, ownership, sale, exchange,  
12 or any other disposition of intangible property; (2)  
13 losses incurred, directly or indirectly, from  
14 factoring transactions or discounting transactions;  
15 (3) royalty, patent, technical, and copyright fees;  
16 (4) licensing fees; and (5) other similar expenses and  
17 costs. For purposes of this subparagraph, "intangible  
18 property" includes patents, patent applications, trade  
19 names, trademarks, service marks, copyrights, mask  
20 works, trade secrets, and similar types of intangible  
21 assets.

22 This paragraph shall not apply to the following:

23 (i) any item of intangible expenses or costs  
24 paid, accrued, or incurred, directly or  
25 indirectly, from a transaction with a foreign  
26 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 item; or

4 (ii) any item of intangible expense or cost  
5 paid, accrued, or incurred, directly or  
6 indirectly, if the taxpayer can establish, based  
7 on a 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 intangible expense or cost to a person that is  
12 not a related member, and

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

20 (iii) any item of intangible expense or cost  
21 paid, accrued, or incurred, directly or  
22 indirectly, from a transaction with a foreign  
23 person if the taxpayer establishes by clear and  
24 convincing evidence, that the adjustments are  
25 unreasonable; or if the taxpayer and the Director  
26 agree in writing to the application or use of an

1 alternative method of apportionment under Section  
2 304(f);

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

12 (D-20) For taxable years beginning on or after  
13 January 1, 2002, in the case of a distribution from a  
14 qualified tuition program under Section 529 of the  
15 Internal Revenue Code, other than (i) a distribution  
16 from a College Savings Pool created under Section 16.5  
17 of the State Treasurer Act or (ii) a distribution from  
18 the Illinois Prepaid Tuition Trust Fund, an amount  
19 equal to the amount excluded from gross income under  
20 Section 529(c)(3)(B);

21 and by deducting from the total so obtained the sum of the  
22 following amounts:

23 (E) For taxable years ending before December 31,  
24 2001, any amount included in such total in respect of  
25 any compensation (including but not limited to any  
26 compensation paid or accrued to a serviceman while a

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

24 (F) An amount equal to all amounts included in such  
25 total pursuant to the provisions of Sections 402(a),  
26 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the

1 Internal Revenue Code, or included in such total as  
2 distributions under the provisions of any retirement  
3 or disability plan for employees of any governmental  
4 agency or unit, or retirement payments to retired  
5 partners, which payments are excluded in computing net  
6 earnings from self employment by Section 1402 of the  
7 Internal Revenue Code and regulations adopted pursuant  
8 thereto;

9 (G) The valuation limitation amount;

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

13 (I) An amount equal to all amounts included in such  
14 total pursuant to the provisions of Section 111 of the  
15 Internal Revenue Code as a recovery of items previously  
16 deducted from adjusted gross income in the computation  
17 of taxable income;

18 (J) An amount equal to those dividends included in  
19 such total which were paid by a corporation which  
20 conducts business operations in an Enterprise Zone or  
21 zones created under the Illinois Enterprise Zone Act or  
22 a River Edge Redevelopment Zone or zones created under  
23 the River Edge Redevelopment Zone Act, and conducts  
24 substantially all of its operations in an Enterprise  
25 Zone or zones or a River Edge Redevelopment Zone or  
26 zones. This subparagraph (J) is exempt from the

1 provisions of Section 250;

2 (J-5) The amount of any contribution certified by  
3 the Department and made by the taxpayer during the  
4 taxable year under Section 11 of the Advanced Sciences  
5 Zone Act. This subparagraph (J-5) is exempt from the  
6 provisions of Section 250;

7 (K) An amount equal to those dividends included in  
8 such total that were paid by a corporation that  
9 conducts business operations in a federally designated  
10 Foreign Trade Zone or Sub-Zone and that is designated a  
11 High Impact Business located in Illinois; provided  
12 that dividends eligible for the deduction provided in  
13 subparagraph (J) of paragraph (2) of this subsection  
14 shall not be eligible for the deduction provided under  
15 this subparagraph (K);

16 (L) For taxable years ending after December 31,  
17 1983, an amount equal to all social security benefits  
18 and railroad retirement benefits included in such  
19 total pursuant to Sections 72(r) and 86 of the Internal  
20 Revenue Code;

21 (M) With the exception of any amounts subtracted  
22 under subparagraph (N), an amount equal to the sum of  
23 all amounts disallowed as deductions by (i) Sections  
24 171(a) (2), and 265(2) of the Internal Revenue Code of  
25 1954, as now or hereafter amended, and all amounts of  
26 expenses allocable to interest and disallowed as

1           deductions by Section 265(1) of the Internal Revenue  
2           Code of 1954, as now or hereafter amended; and (ii) for  
3           taxable years ending on or after August 13, 1999,  
4           Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of  
5           the Internal Revenue Code; the provisions of this  
6           subparagraph are exempt from the provisions of Section  
7           250;

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

17          (O) An amount equal to any contribution made to a  
18          job training project established pursuant to the Tax  
19          Increment Allocation Redevelopment Act;

20          (P) An amount equal to the amount of the deduction  
21          used to compute the federal income tax credit for  
22          restoration of substantial amounts held under claim of  
23          right for the taxable year pursuant to Section 1341 of  
24          the Internal Revenue Code of 1986;

25          (Q) An amount equal to any amounts included in such  
26          total, received by the taxpayer as an acceleration in

1 the payment of life, endowment or annuity benefits in  
2 advance of the time they would otherwise be payable as  
3 an indemnity for a terminal illness;

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

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

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

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

1           (V) Beginning with tax years ending on or after  
2           December 31, 1995 and ending with tax years ending on  
3           or before December 31, 2004, an amount equal to the  
4           amount paid by a taxpayer who is a self-employed  
5           taxpayer, a partner of a partnership, or a shareholder  
6           in a Subchapter S corporation for health insurance or  
7           long-term care insurance for that taxpayer or that  
8           taxpayer's spouse or dependents, to the extent that the  
9           amount paid for that health insurance or long-term care  
10          insurance may be deducted under Section 213 of the  
11          Internal Revenue Code of 1986, has not been deducted on  
12          the federal income tax return of the taxpayer, and does  
13          not exceed the taxable income attributable to that  
14          taxpayer's income, self-employment income, or  
15          Subchapter S corporation income; except that no  
16          deduction shall be allowed under this item (V) if the  
17          taxpayer is eligible to participate in any health  
18          insurance or long-term care insurance plan of an  
19          employer of the taxpayer or the taxpayer's spouse. The  
20          amount of the health insurance and long-term care  
21          insurance subtracted under this item (V) shall be  
22          determined by multiplying total health insurance and  
23          long-term care insurance premiums paid by the taxpayer  
24          times a number that represents the fractional  
25          percentage of eligible medical expenses under Section  
26          213 of the Internal Revenue Code of 1986 not actually

1           deducted on the taxpayer's federal income tax return;

2           (W) For taxable years beginning on or after January  
3           1, 1998, all amounts included in the taxpayer's federal  
4           gross income in the taxable year from amounts converted  
5           from a regular IRA to a Roth IRA. This paragraph is  
6           exempt from the provisions of Section 250;

7           (X) For taxable year 1999 and thereafter, an amount  
8           equal to the amount of any (i) distributions, to the  
9           extent includible in gross income for federal income  
10          tax purposes, made to the taxpayer because of his or  
11          her status as a victim of persecution for racial or  
12          religious reasons by Nazi Germany or any other Axis  
13          regime or as an heir of the victim and (ii) items of  
14          income, to the extent includible in gross income for  
15          federal income tax purposes, attributable to, derived  
16          from or in any way related to assets stolen from,  
17          hidden from, or otherwise lost to a victim of  
18          persecution for racial or religious reasons by Nazi  
19          Germany or any other Axis regime immediately prior to,  
20          during, and immediately after World War II, including,  
21          but not limited to, interest on the proceeds receivable  
22          as insurance under policies issued to a victim of  
23          persecution for racial or religious reasons by Nazi  
24          Germany or any other Axis regime by European insurance  
25          companies immediately prior to and during World War II;  
26          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 (Y) For taxable years beginning on or after January  
15 1, 2002 and ending on or before December 31, 2004,  
16 moneys contributed in the taxable year to a College  
17 Savings Pool account under Section 16.5 of the State  
18 Treasurer Act, except that amounts excluded from gross  
19 income under Section 529(c)(3)(C)(i) of the Internal  
20 Revenue Code shall not be considered moneys  
21 contributed under this subparagraph (Y). For taxable  
22 years beginning on or after January 1, 2005, a maximum  
23 of \$10,000 contributed in the taxable year to (i) a  
24 College Savings Pool account under Section 16.5 of the  
25 State Treasurer Act or (ii) the Illinois Prepaid  
26 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 is taken on the taxpayer's federal income tax return  
9 under subsection (k) of Section 168 of the Internal  
10 Revenue Code and for each applicable taxable year  
11 thereafter, an amount equal to "x", where:

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

19 (2) for taxable years ending on or before  
20 December 31, 2005, "x" equals "y" multiplied by 30  
21 and then divided by 70 (or "y" multiplied by  
22 0.429); and

23 (3) for taxable years ending after December  
24 31, 2005:

25 (i) for property on which a bonus  
26 depreciation deduction of 30% of the adjusted

1 basis was taken, "x" equals "y" multiplied by  
2 30 and then divided by 70 (or "y" multiplied by  
3 0.429); and

4 (ii) for property on which a bonus  
5 depreciation deduction of 50% of the adjusted  
6 basis was taken, "x" equals "y" multiplied by  
7 1.0.

8 The aggregate amount deducted under this  
9 subparagraph in all taxable years for any one piece of  
10 property may not exceed the amount of the bonus  
11 depreciation deduction taken on that property on the  
12 taxpayer's federal income tax return under subsection  
13 (k) of Section 168 of the Internal Revenue Code. This  
14 subparagraph (Z) is exempt from the provisions of  
15 Section 250;

16 (AA) If the taxpayer sells, transfers, abandons,  
17 or otherwise disposes of property for which the  
18 taxpayer was required in any taxable year to make an  
19 addition modification under subparagraph (D-15), then  
20 an amount equal to that addition modification.

21 If the taxpayer continues to own property through  
22 the last day of the last tax year for which the  
23 taxpayer may claim a depreciation deduction for  
24 federal income tax purposes and for which the taxpayer  
25 was required in any taxable year to make an addition  
26 modification under subparagraph (D-15), then an amount

1 equal to that addition modification.

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

5 This subparagraph (AA) is exempt from the  
6 provisions of Section 250;

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

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

26 (DD) An amount equal to the interest income taken

1           into account for the taxable year (net of the  
2           deductions allocable thereto) with respect to  
3           transactions with a foreign person who would be a  
4           member of the taxpayer's unitary business group but for  
5           the fact that the foreign person's business activity  
6           outside the United States is 80% or more of that  
7           person's total business activity, but not to exceed the  
8           addition modification required to be made for the same  
9           taxable year under Section 203(a)(2)(D-17) for  
10          interest paid, accrued, or incurred, directly or  
11          indirectly, to the same foreign person; and

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

25          (b) Corporations.

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

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

7                   (A) An amount equal to all amounts paid or accrued  
8 to the taxpayer as interest and all distributions  
9 received from regulated investment companies during  
10 the taxable year to the extent excluded from gross  
11 income in the computation of taxable income;

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

15                   (C) In the case of a regulated investment company,  
16 an amount equal to the excess of (i) the net long-term  
17 capital gain for the taxable year, over (ii) the amount  
18 of the capital gain dividends designated as such in  
19 accordance with Section 852(b)(3)(C) of the Internal  
20 Revenue Code and any amount designated under Section  
21 852(b)(3)(D) of the Internal Revenue Code,  
22 attributable to the taxable year (this amendatory Act  
23 of 1995 (Public Act 89-89) is declarative of existing  
24 law and is not a new enactment);

25                   (D) The amount of any net operating loss deduction  
26 taken in arriving at taxable income, other than a net

1 operating loss carried forward from a taxable year  
2 ending prior to December 31, 1986;

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

13 (i) the addition modification relating to the  
14 net operating loss carried back or forward to the  
15 taxable year from any taxable year ending prior to  
16 December 31, 1986 shall be reduced by the amount of  
17 addition modification under this subparagraph (E)  
18 which related to that net operating loss and which  
19 was taken into account in calculating the base  
20 income of an earlier taxable year, and

21 (ii) the addition modification relating to the  
22 net operating loss carried back or forward to the  
23 taxable year from any taxable year ending prior to  
24 December 31, 1986 shall not exceed the amount of  
25 such carryback or carryforward;

26 For taxable years in which there is a net operating

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

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

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

17 (E-11) If the taxpayer sells, transfers, abandons,  
18 or otherwise disposes of property for which the  
19 taxpayer was required in any taxable year to make an  
20 addition modification under subparagraph (E-10), then  
21 an amount equal to the aggregate amount of the  
22 deductions taken in all taxable years under  
23 subparagraph (T) with respect to that property.

24 If the taxpayer continues to own property through  
25 the last day of the last tax year for which the  
26 taxpayer may claim a depreciation deduction for

1 federal income tax purposes and for which the taxpayer  
2 was allowed in any taxable year to make a subtraction  
3 modification under subparagraph (T), then an amount  
4 equal to that subtraction modification.

5 The taxpayer is required to make the addition  
6 modification under this subparagraph only once with  
7 respect to any one piece of property;

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

1 incurred.

2 This paragraph shall not apply to the following:

3 (i) an item of interest paid, accrued, or  
4 incurred, directly or indirectly, to 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 interest; or

9 (ii) an item of interest paid, accrued, or  
10 incurred, directly or indirectly, to a foreign  
11 person if the taxpayer can establish, based on a  
12 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 interest to a person that is not a related  
17 member, and

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

25 (iii) the taxpayer can establish, based on  
26 clear and convincing evidence, that the interest

1           paid, accrued, or incurred relates to a contract or  
2           agreement entered into at arm's-length rates and  
3           terms and the principal purpose for the payment is  
4           not federal or Illinois tax avoidance; or

5           (iv) an item of interest paid, accrued, or  
6           incurred, directly or indirectly, to a foreign  
7           person if the taxpayer establishes by clear and  
8           convincing evidence that the adjustments are  
9           unreasonable; or if the taxpayer and the Director  
10          agree in writing to the application or use of an  
11          alternative method of apportionment under Section  
12          304(f).

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

22          (E-13) For taxable years ending on or after  
23          December 31, 2004, an amount equal to the amount of  
24          intangible expenses and costs otherwise allowed as a  
25          deduction in computing base income, and that were paid,  
26          accrued, or incurred, directly or indirectly, to a

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

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

8 This paragraph shall not apply to the following:

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

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

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

25 (b) the transaction giving rise to the  
26 intangible expense or cost between the

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

6 (iii) any item of intangible expense or cost  
7 paid, accrued, or incurred, directly or  
8 indirectly, from a transaction with a foreign  
9 person if the taxpayer establishes by clear and  
10 convincing evidence, that the adjustments are  
11 unreasonable; or if the taxpayer and the Director  
12 agree in writing to the application or use of an  
13 alternative method of apportionment under Section  
14 304(f);

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

24 and by deducting from the total so obtained the sum of the  
25 following amounts:

26 (F) An amount equal to the amount of any tax

1 imposed by this Act which was refunded to the taxpayer  
2 and included in such total for the taxable year;

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

5 (H) In the case of a regulated investment company,  
6 an amount equal to the amount of exempt interest  
7 dividends as defined in subsection (b) (5) of Section  
8 852 of the Internal Revenue Code, paid to shareholders  
9 for the taxable year;

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

24 (J) An amount equal to all amounts included in such  
25 total which are exempt from taxation by this State  
26 either by reason of its statutes or Constitution or by

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

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

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

26 (M) For any taxpayer that is a financial

1 organization within the meaning of Section 304(c) of  
2 this Act, an amount included in such total as interest  
3 income from a loan or loans made by such taxpayer to a  
4 borrower, to the extent that such a loan is secured by  
5 property which is eligible for the Enterprise Zone  
6 Investment Credit or the River Edge Redevelopment Zone  
7 Investment Credit. To determine the portion of a loan  
8 or loans that is secured by property eligible for a  
9 Section 201(f) investment credit to the borrower, the  
10 entire principal amount of the loan or loans between  
11 the taxpayer and the borrower should be divided into  
12 the basis of the Section 201(f) investment credit  
13 property which secures the loan or loans, using for  
14 this purpose the original basis of such property on the  
15 date that it was placed in service in the Enterprise  
16 Zone or the River Edge Redevelopment Zone. The  
17 subtraction modification available to taxpayer in any  
18 year under this subsection shall be that portion of the  
19 total interest paid by the borrower with respect to  
20 such loan attributable to the eligible property as  
21 calculated under the previous sentence. This  
22 subparagraph (M) is exempt from the provisions of  
23 Section 250;

24 (M-1) For any taxpayer that is a financial  
25 organization within the meaning of Section 304(c) of  
26 this Act, an amount included in such total as interest

1 income from a loan or loans made by such taxpayer to a  
2 borrower, to the extent that such a loan is secured by  
3 property which is eligible for the High Impact Business  
4 Investment Credit. To determine the portion of a loan  
5 or loans that is secured by property eligible for a  
6 Section 201(h) investment credit to the borrower, the  
7 entire principal amount of the loan or loans between  
8 the taxpayer and the borrower should be divided into  
9 the basis of the Section 201(h) investment credit  
10 property which secures the loan or loans, using for  
11 this purpose the original basis of such property on the  
12 date that it was placed in service in a federally  
13 designated Foreign Trade Zone or Sub-Zone located in  
14 Illinois. No taxpayer that is eligible for the  
15 deduction provided in subparagraph (M) of paragraph  
16 (2) of this subsection shall be eligible for the  
17 deduction provided under this subparagraph (M-1). The  
18 subtraction modification available to taxpayers in any  
19 year under this subsection shall be that portion of the  
20 total interest paid by the borrower with respect to  
21 such loan attributable to the eligible property as  
22 calculated under the previous sentence;

23 (N) Two times any contribution made during the  
24 taxable year to a designated zone organization to the  
25 extent that the contribution (i) qualifies as a  
26 charitable contribution under subsection (c) of

1 Section 170 of the Internal Revenue Code and (ii) must,  
2 by its terms, be used for a project approved by the  
3 Department of Commerce and Economic Opportunity under  
4 Section 11 of the Illinois Enterprise Zone Act or under  
5 Section 10-10 of the ~~Illinois~~ River Edge Redevelopment  
6 Zone Act. This subparagraph (N) is exempt from the  
7 provisions of Section 250;

8 (N-5) The amount of any contribution certified by  
9 the Department and made by the taxpayer during the  
10 taxable year under Section 11 of the Advanced Sciences  
11 Zone Act. This subparagraph (N-5) is exempt from the  
12 provisions of Section 250;

13 (O) An amount equal to: (i) 85% for taxable years  
14 ending on or before December 31, 1992, or, a percentage  
15 equal to the percentage allowable under Section  
16 243(a)(1) of the Internal Revenue Code of 1986 for  
17 taxable years ending after December 31, 1992, of the  
18 amount by which dividends included in taxable income  
19 and received from a corporation that is not created or  
20 organized under the laws of the United States or any  
21 state or political subdivision thereof, including, for  
22 taxable years ending on or after December 31, 1988,  
23 dividends received or deemed received or paid or deemed  
24 paid under Sections 951 through 964 of the Internal  
25 Revenue Code, exceed the amount of the modification  
26 provided under subparagraph (G) of paragraph (2) of

1           this subsection (b) which is related to such dividends;  
2           plus (ii) 100% of the amount by which dividends,  
3           included in taxable income and received, including,  
4           for taxable years ending on or after December 31, 1988,  
5           dividends received or deemed received or paid or deemed  
6           paid under Sections 951 through 964 of the Internal  
7           Revenue Code, from any such corporation specified in  
8           clause (i) that would but for the provisions of Section  
9           1504 (b) (3) of the Internal Revenue Code be treated as  
10          a member of the affiliated group which includes the  
11          dividend recipient, exceed the amount of the  
12          modification provided under subparagraph (G) of  
13          paragraph (2) of this subsection (b) which is related  
14          to such dividends;

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

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

23                 (R) On and after July 20, 1999, in the case of an  
24                 attorney-in-fact with respect to whom an interinsurer  
25                 or a reciprocal insurer has made the election under  
26                 Section 835 of the Internal Revenue Code, 26 U.S.C.

1 835, an amount equal to the excess, if any, of the  
2 amounts paid or incurred by that interinsurer or  
3 reciprocal insurer in the taxable year to the  
4 attorney-in-fact over the deduction allowed to that  
5 interinsurer or reciprocal insurer with respect to the  
6 attorney-in-fact under Section 835(b) of the Internal  
7 Revenue Code for the taxable year; the provisions of  
8 this subparagraph are exempt from the provisions of  
9 Section 250;

10 (S) For taxable years ending on or after December  
11 31, 1997, in the case of a Subchapter S corporation, an  
12 amount equal to all amounts of income allocable to a  
13 shareholder subject to the Personal Property Tax  
14 Replacement Income Tax imposed by subsections (c) and  
15 (d) of Section 201 of this Act, including amounts  
16 allocable to organizations exempt from federal income  
17 tax by reason of Section 501(a) of the Internal Revenue  
18 Code. This subparagraph (S) is exempt from the  
19 provisions of Section 250;

20 (T) For taxable years 2001 and thereafter, for the  
21 taxable year in which the bonus depreciation deduction  
22 is taken on the taxpayer's federal income tax return  
23 under subsection (k) of Section 168 of the Internal  
24 Revenue Code and for each applicable taxable year  
25 thereafter, an amount equal to "x", where:

26 (1) "y" equals the amount of the depreciation

1 deduction taken for the taxable year on the  
2 taxpayer's federal income tax return on property  
3 for which the bonus depreciation deduction was  
4 taken in any year under subsection (k) of Section  
5 168 of the Internal Revenue Code, but not including  
6 the bonus depreciation deduction;

7 (2) for taxable years ending on or before  
8 December 31, 2005, "x" equals "y" multiplied by 30  
9 and then divided by 70 (or "y" multiplied by  
10 0.429); and

11 (3) for taxable years ending after December  
12 31, 2005:

13 (i) for property on which a bonus  
14 depreciation deduction of 30% of the adjusted  
15 basis was taken, "x" equals "y" multiplied by  
16 30 and then divided by 70 (or "y" multiplied by  
17 0.429); and

18 (ii) for property on which a bonus  
19 depreciation deduction of 50% of the adjusted  
20 basis was taken, "x" equals "y" multiplied by  
21 1.0.

22 The aggregate amount deducted under this  
23 subparagraph in all taxable years for any one piece of  
24 property may not exceed the amount of the bonus  
25 depreciation deduction taken on that property on the  
26 taxpayer's federal income tax return under subsection

1 (k) of Section 168 of the Internal Revenue Code. This  
2 subparagraph (T) is exempt from the provisions of  
3 Section 250;

4 (U) If the taxpayer sells, transfers, abandons, or  
5 otherwise disposes of property for which the taxpayer  
6 was required in any taxable year to make an addition  
7 modification under subparagraph (E-10), then an amount  
8 equal to that addition modification.

9 If the taxpayer continues to own property through  
10 the last day of the last tax year for which the  
11 taxpayer may claim a depreciation deduction for  
12 federal income tax purposes and for which the taxpayer  
13 was required in any taxable year to make an addition  
14 modification under subparagraph (E-10), then an amount  
15 equal to that addition modification.

16 The taxpayer is allowed to take the deduction under  
17 this subparagraph only once with respect to any one  
18 piece of property.

19 This subparagraph (U) is exempt from the  
20 provisions of Section 250;

21 (V) The amount of: (i) any interest income (net of  
22 the deductions allocable thereto) taken into account  
23 for the taxable year with respect to a transaction with  
24 a taxpayer that is required to make an addition  
25 modification with respect to such transaction under  
26 Section 203(a)(2)(D-17), 203(b)(2)(E-12),

1 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
2 the amount of such addition modification and (ii) any  
3 income from intangible property (net of the deductions  
4 allocable thereto) taken into account for the taxable  
5 year with respect to a transaction with a taxpayer that  
6 is required to make an addition modification with  
7 respect to such transaction under Section  
8 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
9 203(d)(2)(D-8), but not to exceed the amount of such  
10 addition modification;

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

23 (X) An amount equal to the income from intangible  
24 property taken into account for the taxable year (net  
25 of the deductions allocable thereto) with respect to  
26 transactions with a foreign person who would be a

1 member of the taxpayer's unitary business group but for  
2 the fact that the foreign person's business activity  
3 outside the United States is 80% or more of that  
4 person's total business activity, but not to exceed the  
5 addition modification required to be made for the same  
6 taxable year under Section 203(b)(2)(E-13) for  
7 intangible expenses and costs paid, accrued, or  
8 incurred, directly or indirectly, to the same foreign  
9 person.

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

14 (c) Trusts and estates.

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

18 (2) Modifications. Subject to the provisions of  
19 paragraph (3), the taxable income referred to in paragraph  
20 (1) shall be modified by adding thereto the sum of the  
21 following amounts:

22 (A) An amount equal to all amounts paid or accrued  
23 to the taxpayer as interest or dividends during the  
24 taxable year to the extent excluded from gross income  
25 in the computation of taxable income;

1           (B) In the case of (i) an estate, \$600; (ii) a  
2 trust which, under its governing instrument, is  
3 required to distribute all of its income currently,  
4 \$300; and (iii) any other trust, \$100, but in each such  
5 case, only to the extent such amount was deducted in  
6 the computation of taxable income;

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

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

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

24           (i) the addition modification relating to the  
25 net operating loss carried back or forward to the  
26 taxable year from any taxable year ending prior to

1 December 31, 1986 shall be reduced by the amount of  
2 addition modification under this subparagraph (E)  
3 which related to that net operating loss and which  
4 was taken into account in calculating the base  
5 income of an earlier taxable year, and

6 (ii) the addition modification relating to the  
7 net operating loss carried back or forward to the  
8 taxable year from any taxable year ending prior to  
9 December 31, 1986 shall not exceed the amount of  
10 such carryback or carryforward;

11 For taxable years in which there is a net operating  
12 loss carryback or carryforward from more than one other  
13 taxable year ending prior to December 31, 1986, the  
14 addition modification provided in this subparagraph  
15 (E) shall be the sum of the amounts computed  
16 independently under the preceding provisions of this  
17 subparagraph (E) for each such taxable year;

18 (F) For taxable years ending on or after January 1,  
19 1989, an amount equal to the tax deducted pursuant to  
20 Section 164 of the Internal Revenue Code if the trust  
21 or estate is claiming the same tax for purposes of the  
22 Illinois foreign tax credit under Section 601 of this  
23 Act;

24 (G) An amount equal to the amount of the capital  
25 gain deduction allowable under the Internal Revenue  
26 Code, to the extent deducted from gross income in the

1 computation of taxable income;

2 (G-5) For taxable years ending after December 31,  
3 1997, an amount equal to any eligible remediation costs  
4 that the trust or estate deducted in computing adjusted  
5 gross income and for which the trust or estate claims a  
6 credit under subsection (l) of Section 201;

7 (G-10) For taxable years 2001 and thereafter, an  
8 amount equal to the bonus depreciation deduction taken  
9 on the taxpayer's federal income tax return for the  
10 taxable year under subsection (k) of Section 168 of the  
11 Internal Revenue Code; and

12 (G-11) If the taxpayer sells, transfers, abandons,  
13 or otherwise disposes of property for which the  
14 taxpayer was required in any taxable year to make an  
15 addition modification under subparagraph (G-10), then  
16 an amount equal to the aggregate amount of the  
17 deductions taken in all taxable years under  
18 subparagraph (R) with respect to that property.

19 If the taxpayer continues to own property through  
20 the last day of the last tax year for which the  
21 taxpayer may claim a depreciation deduction for  
22 federal income tax purposes and for which the taxpayer  
23 was allowed in any taxable year to make a subtraction  
24 modification under subparagraph (R), then an amount  
25 equal to that subtraction modification.

26 The taxpayer is required to make the addition

1 modification under this subparagraph only once with  
2 respect to any one piece of property;

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

23 This paragraph shall not apply to the following:

24 (i) an item of interest paid, accrued, or  
25 incurred, directly or indirectly, to a foreign  
26 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

1 incurred, directly or indirectly, to a foreign  
2 person if the taxpayer establishes by clear and  
3 convincing evidence that the adjustments are  
4 unreasonable; or if the taxpayer and the Director  
5 agree in writing to the application or use of an  
6 alternative method of apportionment under Section  
7 304(f).

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

17 (G-13) For taxable years ending on or after  
18 December 31, 2004, an amount equal to the amount of  
19 intangible expenses and costs otherwise allowed as a  
20 deduction in computing base income, and that were paid,  
21 accrued, or incurred, directly or indirectly, to a  
22 foreign person who would be a member of the same  
23 unitary business group but for the fact that the  
24 foreign person's business activity outside the United  
25 States is 80% or more of that person's total business  
26 activity. The addition modification required by this

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

1 trademarks, service marks, copyrights, mask works,  
2 trade secrets, and similar types of intangible assets.

3 This paragraph shall not apply to the following:

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

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

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

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

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

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

19           and by deducting from the total so obtained the sum of the  
20           following amounts:

21           (H) An amount equal to all amounts included in such  
22           total pursuant to the provisions of Sections 402(a),  
23           402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the  
24           Internal Revenue Code or included in such total as  
25           distributions under the provisions of any retirement  
26           or disability plan for employees of any governmental

1 agency or unit, or retirement payments to retired  
2 partners, which payments are excluded in computing net  
3 earnings from self employment by Section 1402 of the  
4 Internal Revenue Code and regulations adopted pursuant  
5 thereto;

6 (I) The valuation limitation amount;

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

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

21 (L) With the exception of any amounts subtracted  
22 under subparagraph (K), an amount equal to the sum of  
23 all amounts disallowed as deductions by (i) Sections  
24 171(a) (2) and 265(a) (2) of the Internal Revenue Code,  
25 as now or hereafter amended, and all amounts of  
26 expenses allocable to interest and disallowed as

1 deductions by Section 265(1) of the Internal Revenue  
2 Code of 1954, as now or hereafter amended; and (ii) for  
3 taxable years ending on or after August 13, 1999,  
4 Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of  
5 the Internal Revenue Code; the provisions of this  
6 subparagraph are exempt from the provisions of Section  
7 250;

8 (M) 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 (M) is exempt from the  
17 provisions of Section 250;

18 (M-5) The amount of any contribution certified by  
19 the Department and made by the taxpayer during the  
20 taxable year under Section 11 of the Advanced Sciences  
21 Zone Act. This subparagraph (M-5) is exempt from the  
22 provisions of Section 250;

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

26 (O) An amount equal to those dividends included in

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

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

14 (Q) For taxable year 1999 and thereafter, an amount  
15 equal to the amount of any (i) distributions, to the  
16 extent includible in gross income for federal income  
17 tax purposes, made to the taxpayer because of his or  
18 her status as a victim of persecution for racial or  
19 religious reasons by Nazi Germany or any other Axis  
20 regime or as an heir of the victim and (ii) items of  
21 income, to the extent includible in gross income for  
22 federal income tax purposes, attributable to, derived  
23 from or in any way related to assets stolen from,  
24 hidden from, or otherwise lost to a victim of  
25 persecution for racial or religious reasons by Nazi  
26 Germany or any other Axis regime immediately prior to,

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

21 (R) For taxable years 2001 and thereafter, for the  
22 taxable year in which the bonus depreciation deduction  
23 is taken on the taxpayer's federal income tax return  
24 under subsection (k) of Section 168 of the Internal  
25 Revenue Code and for each applicable taxable year  
26 thereafter, an amount equal to "x", where:

1           (1) "y" equals the amount of the depreciation  
2 deduction taken for the taxable year on the  
3 taxpayer's federal income tax return on property  
4 for which the bonus depreciation deduction was  
5 taken in any year under subsection (k) of Section  
6 168 of the Internal Revenue Code, but not including  
7 the bonus depreciation deduction;

8           (2) for taxable years ending on or before  
9 December 31, 2005, "x" equals "y" multiplied by 30  
10 and then divided by 70 (or "y" multiplied by  
11 0.429); and

12           (3) for taxable years ending after December  
13 31, 2005:

14           (i) for property on which a bonus  
15 depreciation deduction of 30% of the adjusted  
16 basis was taken, "x" equals "y" multiplied by  
17 30 and then divided by 70 (or "y" multiplied by  
18 0.429); and

19           (ii) for property on which a bonus  
20 depreciation deduction of 50% of the adjusted  
21 basis was taken, "x" equals "y" multiplied by  
22 1.0.

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 taken on that property on the

1 taxpayer's federal income tax return under subsection  
2 (k) of Section 168 of the Internal Revenue Code. This  
3 subparagraph (R) is exempt from the provisions of  
4 Section 250;

5 (S) If the taxpayer sells, transfers, abandons, or  
6 otherwise disposes of property for which the taxpayer  
7 was required in any taxable year to make an addition  
8 modification under subparagraph (G-10), then an amount  
9 equal to that addition modification.

10 If the taxpayer continues to own property through  
11 the last day of the last tax year for which the  
12 taxpayer may claim a depreciation deduction for  
13 federal income tax purposes and for which the taxpayer  
14 was required in any taxable year to make an addition  
15 modification under subparagraph (G-10), then an amount  
16 equal to that addition modification.

17 The taxpayer is allowed to take the deduction under  
18 this subparagraph only once with respect to any one  
19 piece of property.

20 This subparagraph (S) is exempt from the  
21 provisions of Section 250;

22 (T) The amount of (i) any interest income (net of  
23 the deductions allocable thereto) taken into account  
24 for the taxable year with respect to a transaction with  
25 a taxpayer that is required to make an addition  
26 modification with respect to such transaction under

1 Section 203(a)(2)(D-17), 203(b)(2)(E-12),  
2 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
3 the amount of such addition modification and (ii) any  
4 income from intangible property (net of the deductions  
5 allocable thereto) taken into account for the taxable  
6 year with respect to a transaction with a taxpayer that  
7 is required to make an addition modification with  
8 respect to such transaction under Section  
9 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
10 203(d)(2)(D-8), but not to exceed the amount of such  
11 addition modification;

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

24 (V) An amount equal to the income from intangible  
25 property taken into account for the taxable year (net  
26 of the deductions allocable thereto) with respect to

1 transactions with a foreign person who would be a  
2 member of the taxpayer's unitary business group but for  
3 the fact that the foreign person's business activity  
4 outside the United States is 80% or more of that  
5 person's total business activity, but not to exceed the  
6 addition modification required to be made for the same  
7 taxable year under Section 203(c)(2)(G-13) for  
8 intangible expenses and costs paid, accrued, or  
9 incurred, directly or indirectly, to the same foreign  
10 person.

11 (3) Limitation. The amount of any modification  
12 otherwise required under this subsection shall, under  
13 regulations prescribed by the Department, be adjusted by  
14 any amounts included therein which were properly paid,  
15 credited, or required to be distributed, or permanently set  
16 aside for charitable purposes pursuant to Internal Revenue  
17 Code Section 642(c) during the taxable year.

18 (d) Partnerships.

19 (1) In general. In the case of a partnership, 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. The taxable income referred to in  
23 paragraph (1) shall be modified by adding thereto the sum  
24 of the following amounts:

25 (A) An amount equal to all amounts paid or accrued

1 to the taxpayer as interest or dividends during the  
2 taxable year to the extent excluded from gross income  
3 in the computation of taxable income;

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

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

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

14 (D-5) For taxable years 2001 and thereafter, an  
15 amount equal to the bonus depreciation deduction 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;

19 (D-6) If the taxpayer sells, transfers, abandons,  
20 or otherwise disposes of property for which the  
21 taxpayer was required in any taxable year to make an  
22 addition modification under subparagraph (D-5), then  
23 an amount equal to the aggregate amount of the  
24 deductions taken in all taxable years under  
25 subparagraph (D) with respect to that property.

26 If the taxpayer continues to own property through

1 the last day of the last tax year for which the  
2 taxpayer may claim a depreciation deduction for  
3 federal income tax purposes and for which the taxpayer  
4 was allowed in any taxable year to make a subtraction  
5 modification under subparagraph (O), then an amount  
6 equal to that subtraction modification.

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

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

1 with respect to the stock of the same person to whom  
2 the interest was paid, accrued, or incurred.

3 This paragraph shall not apply to the following:

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

10 (ii) an item of interest paid, accrued, or  
11 incurred, directly or indirectly, to a foreign  
12 person if the taxpayer can establish, based on a  
13 preponderance of the evidence, both of the  
14 following:

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

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

26 (iii) the taxpayer can establish, based on

1 clear and convincing evidence, that the interest  
2 paid, accrued, or incurred relates to a contract or  
3 agreement entered into at arm's-length rates and  
4 terms and the principal purpose for the payment is  
5 not federal or Illinois tax avoidance; or

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

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

23 (D-8) For taxable years ending on or after December  
24 31, 2004, an amount equal to the amount of intangible  
25 expenses and costs otherwise allowed as a deduction in  
26 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

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

9 This paragraph shall not apply to the following:

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

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

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

26 (b) the transaction giving rise to the

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

7 (iii) any item of intangible expense or cost  
8 paid, accrued, or incurred, directly or  
9 indirectly, from a transaction with a foreign  
10 person if the taxpayer establishes by clear and  
11 convincing evidence, that the adjustments are  
12 unreasonable; or if the taxpayer and the Director  
13 agree in writing to the application or use of an  
14 alternative method of apportionment under Section  
15 304(f);

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

25 and by deducting from the total so obtained the following  
26 amounts:

1 (E) The valuation limitation amount;

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

5 (G) An amount equal to all amounts included in  
6 taxable income as modified by subparagraphs (A), (B),  
7 (C) and (D) which are exempt from taxation by this  
8 State either by reason of its statutes or Constitution  
9 or by reason of the Constitution, treaties or statutes  
10 of the United States; provided that, in the case of any  
11 statute of this State that exempts income derived from  
12 bonds or other obligations from the tax imposed under  
13 this Act, the amount exempted shall be the interest net  
14 of bond premium amortization;

15 (H) Any income of the partnership which  
16 constitutes personal service income as defined in  
17 Section 1348 (b) (1) of the Internal Revenue Code (as  
18 in effect December 31, 1981) or a reasonable allowance  
19 for compensation paid or accrued for services rendered  
20 by partners to the partnership, whichever is greater;

21 (I) An amount equal to all amounts of income  
22 distributable to an entity subject to the Personal  
23 Property Tax Replacement Income Tax imposed by  
24 subsections (c) and (d) of Section 201 of this Act  
25 including amounts distributable to organizations  
26 exempt from federal income tax by reason of Section

1 501(a) of the Internal Revenue Code;

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

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

26 (K-5) The amount of any contribution certified by

1 the Department and made by the taxpayer during the  
2 taxable year under Section 11 of the Advanced Sciences  
3 Zone Act. This subparagraph (K-5) is exempt from the  
4 provisions of Section 250;

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

8 (M) An amount equal to those dividends included in  
9 such total that were paid by a corporation that  
10 conducts business operations in a federally designated  
11 Foreign Trade Zone or Sub-Zone and that is designated a  
12 High Impact Business located in Illinois; provided  
13 that dividends eligible for the deduction provided in  
14 subparagraph (K) of paragraph (2) of this subsection  
15 shall not be eligible for the deduction provided under  
16 this subparagraph (M);

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

22 (O) For taxable years 2001 and thereafter, for the  
23 taxable year in which the bonus depreciation deduction  
24 is taken on the taxpayer's federal income tax return  
25 under subsection (k) of Section 168 of the Internal  
26 Revenue Code and for each applicable taxable year

1           thereafter, an amount equal to "x", where:

2                   (1) "y" equals the amount of the depreciation  
3                   deduction taken for the taxable year on the  
4                   taxpayer's federal income tax return on property  
5                   for which the bonus depreciation deduction was  
6                   taken in any year under subsection (k) of Section  
7                   168 of the Internal Revenue Code, but not including  
8                   the bonus depreciation deduction;

9                   (2) for taxable years ending on or before  
10                   December 31, 2005, "x" equals "y" multiplied by 30  
11                   and then divided by 70 (or "y" multiplied by  
12                   0.429); and

13                   (3) for taxable years ending after December  
14                   31, 2005:

15                           (i) for property on which a bonus  
16                           depreciation deduction of 30% of the adjusted  
17                           basis was taken, "x" equals "y" multiplied by  
18                           30 and then divided by 70 (or "y" multiplied by  
19                           0.429); and

20                           (ii) for property on which a bonus  
21                           depreciation deduction of 50% of the adjusted  
22                           basis was taken, "x" equals "y" multiplied by  
23                           1.0.

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

1 depreciation deduction 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. This  
4 subparagraph (O) is exempt from the provisions of  
5 Section 250;

6 (P) If the taxpayer sells, transfers, abandons, or  
7 otherwise disposes of property for which the taxpayer  
8 was required in any taxable year to make an addition  
9 modification under subparagraph (D-5), then an amount  
10 equal to that addition modification.

11 If the taxpayer continues to own property through  
12 the last day of the last tax year for which the  
13 taxpayer may claim a depreciation deduction for  
14 federal income tax purposes and for which the taxpayer  
15 was required in any taxable year to make an addition  
16 modification under subparagraph (D-5), then an amount  
17 equal to that addition modification.

18 The taxpayer is allowed to take the deduction under  
19 this subparagraph only once with respect to any one  
20 piece of property.

21 This subparagraph (P) is exempt from the  
22 provisions of Section 250;

23 (Q) The amount of (i) any interest income (net of  
24 the deductions allocable thereto) taken into account  
25 for the taxable year with respect to a transaction with  
26 a taxpayer that is required to make an addition

1 modification with respect to such transaction under  
2 Section 203(a)(2)(D-17), 203(b)(2)(E-12),  
3 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
4 the amount of such addition modification and (ii) any  
5 income from intangible property (net of the deductions  
6 allocable thereto) taken into account for the taxable  
7 year with respect to a transaction with a taxpayer that  
8 is required to make an addition modification with  
9 respect to such transaction under Section  
10 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
11 203(d)(2)(D-8), but not to exceed the amount of such  
12 addition modification;

13 (R) An amount equal to the interest income taken  
14 into account for the taxable year (net of the  
15 deductions allocable thereto) with respect to  
16 transactions with a foreign person who would be a  
17 member of the taxpayer's unitary business group but for  
18 the fact that the foreign person's business activity  
19 outside the United States is 80% or more of that  
20 person's total business activity, but not to exceed the  
21 addition modification required to be made for the same  
22 taxable year under Section 203(d)(2)(D-7) for interest  
23 paid, accrued, or incurred, directly or indirectly, to  
24 the same foreign person; and

25 (S) An amount equal to the income from intangible  
26 property taken into account for the taxable year (net

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

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

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

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

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

23 (A) Certain life insurance companies. In the case  
24 of a life insurance company subject to the tax imposed  
25 by Section 801 of the Internal Revenue Code, life  
26 insurance company taxable income, plus the amount of

1 distribution from pre-1984 policyholder surplus  
2 accounts as calculated under Section 815a of the  
3 Internal Revenue Code;

4 (B) Certain other insurance companies. In the case  
5 of mutual insurance companies subject to the tax  
6 imposed by Section 831 of the Internal Revenue Code,  
7 insurance company taxable income;

8 (C) Regulated investment companies. In the case of  
9 a regulated investment company subject to the tax  
10 imposed by Section 852 of the Internal Revenue Code,  
11 investment company taxable income;

12 (D) Real estate investment trusts. In the case of a  
13 real estate investment trust subject to the tax imposed  
14 by Section 857 of the Internal Revenue Code, real  
15 estate investment trust taxable income;

16 (E) Consolidated corporations. In the case of a  
17 corporation which is a member of an affiliated group of  
18 corporations filing a consolidated income tax return  
19 for the taxable year for federal income tax purposes,  
20 taxable income determined as if such corporation had  
21 filed a separate return for federal income tax purposes  
22 for the taxable year and each preceding taxable year  
23 for which it was a member of an affiliated group. For  
24 purposes of this subparagraph, the taxpayer's separate  
25 taxable income shall be determined as if the election  
26 provided by Section 243(b) (2) of the Internal Revenue

1 Code had been in effect for all such years;

2 (F) Cooperatives. In the case of a cooperative  
3 corporation or association, the taxable income of such  
4 organization determined in accordance with the  
5 provisions of Section 1381 through 1388 of the Internal  
6 Revenue Code;

7 (G) Subchapter S corporations. In the case of: (i)  
8 a Subchapter S corporation for which there is in effect  
9 an election for the taxable year under Section 1362 of  
10 the Internal Revenue Code, the taxable income of such  
11 corporation determined in accordance with Section  
12 1363(b) of the Internal Revenue Code, except that  
13 taxable income shall take into account those items  
14 which are required by Section 1363(b)(1) of the  
15 Internal Revenue Code to be separately stated; and (ii)  
16 a Subchapter S corporation for which there is in effect  
17 a federal election to opt out of the provisions of the  
18 Subchapter S Revision Act of 1982 and have applied  
19 instead the prior federal Subchapter S rules as in  
20 effect on July 1, 1982, the taxable income of such  
21 corporation determined in accordance with the federal  
22 Subchapter S rules as in effect on July 1, 1982; and

23 (H) Partnerships. In the case of a partnership,  
24 taxable income determined in accordance with Section  
25 703 of the Internal Revenue Code, except that taxable  
26 income shall take into account those items which are

1 required by Section 703(a)(1) to be separately stated  
2 but which would be taken into account by an individual  
3 in calculating his taxable income.

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

21 (f) Valuation limitation amount.

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

25 (A) The sum of the pre-August 1, 1969 appreciation  
26 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

1 amount for such property is that amount which bears the  
2 same ratio to the total gain reported in respect of the  
3 property for federal income tax purposes for the  
4 taxable year, as the number of full calendar months in  
5 that part of the taxpayer's holding period for the  
6 property ending July 31, 1969 bears to the number of  
7 full calendar months in the taxpayer's entire holding  
8 period for the property.

9 (C) The Department shall prescribe such  
10 regulations as may be necessary to carry out the  
11 purposes of this paragraph.

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

15 (h) Legislative intention. Except as expressly provided by  
16 this Section there shall be no modifications or limitations on  
17 the amounts of income, gain, loss or deduction taken into  
18 account in determining gross income, adjusted gross income or  
19 taxable income for federal income tax purposes for the taxable  
20 year, or in the amount of such items entering into the  
21 computation of base income and net income under this Act for  
22 such taxable year, whether in respect of property values as of  
23 August 1, 1969 or otherwise.

24 (Source: P.A. 93-812, eff. 7-26-04; 93-840, eff. 7-30-04;

1 94-776, eff. 5-19-06; 94-789, eff. 5-19-06; 94-1021, eff.  
2 7-12-06; 94-1074, eff. 12-26-06; revised 1-2-07.)

3 (35 ILCS 5/218 new)

4 Sec. 218. Advanced Sciences Zone credit.

5 (a) For taxable years ending after December 31, 2007, each  
6 a taxpayer who has been awarded a tax credit under Sections 13  
7 or 14 of the Advanced Sciences Zone Act is entitled to a credit  
8 against the taxes imposed under subsections (a) and (b) of  
9 Section 201 of this Act in an amount determined by the  
10 Department of Commerce and Economic Opportunity under that Act.

11 (b) If the taxpayer is a partnership or Subchapter S  
12 corporation, the credit is allowed to the partners or  
13 shareholders in 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 (c) The credit may be carried forward or back as set forth  
17 under Sections 13 or 14 of the Advanced Sciences Zone Act.

18 (d) This Section is exempt from the provisions of Section  
19 250 of this Act.

20 Section 999. Effective date. This Act takes effect upon  
21 becoming law.