95TH GENERAL ASSEMBLY
State of Illinois
2007 and 2008

SB1578


SYNOPSIS AS INTRODUCED:

New Act
35 ILCS 5/203 from Ch. 120, par. 2-203
35 ILCS 5/218 new

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 ACT MAY REQUIRE
IMPACT NOTE ACT REIMBURSEMENT

A BILL FOR
AN ACT concerning State government.

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

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

Section 2. Legislative intent and policy. The General Assembly finds and declares that the health, safety, and welfare of the people of this State are dependent upon the advancement of the medical science and technology; that the continual encouragement, development, growth, and expansion of the advanced science sector within the State requires a cooperative and continuous partnership between government and the advanced-sciences sector; and that there are certain areas in this State that need the particular attention of government, business, advanced sciences, and the citizens of Illinois to help attract investments in the advanced sciences for these areas, to directly aid the local community and its residents, and to expand the body of fundamental knowledge. Therefore, it is declared to be the purpose of this Act to explore ways and means of stimulating growth, stabilization, and retention of advanced sciences in the State by means of relaxed government controls and tax incentives in those areas.
Section 3. Definitions. As used in this Act:

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

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

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

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

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

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

"Designated Zone Organization" means an association or entity:

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

(2) the board of directors of which is elected by the
members of the organization;

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

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

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

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

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

(A)(i) increases full-time employment in the first full year of operation within the biotechnology and health sciences industry zone by at least 20 percent measured relative to the operations that were
relocated and maintains the required level of employment for each year the zone designation applies; or (ii) makes a capital investment in the property located within a zone equivalent to ten percent of the gross revenues of operation that were relocated in the immediately preceding taxable year; and

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

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

Section 4. Qualifications for Advanced Sciences Zones.
An area is qualified to become an Advanced Sciences Zone if it:

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

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

(3) satisfies any additional criteria established by rule of the Department that are consistent with the purposes of this Act.
Section 5. Initiation of Advance Sciences Zones by a municipality or county.

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

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

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

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

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

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

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

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

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

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

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

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

(f) The Department shall encourage applications from all areas of the State and shall actively solicit applications from those counties with populations of less than 300,000.
Section 5.1. Application to the Department. A county or municipality that has adopted an ordinance designating an area as an Advanced Sciences Zone must make written application to the Department to have the proposed Advanced Sciences Zone certified by the Department as an Advanced Sciences Zone. The application must include:

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

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

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

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

(e) a statement detailing any tax, grant, and other financial incentives or benefits and any programs, to be provided by the municipality or county to businesses within the zone, other than those provided in the designating ordinance, that are not provided generally throughout the municipality or county;
(f) a statement setting forth the economic development and planning objectives for the zone, including a description of the methods proposed to increase economic opportunity and expansion, facilitate infrastructure improvement, reduce the local regulatory burden, and identify job-training opportunities;

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

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

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

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

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

Section 5.2. Department review of Advanced Sciences Zone applications.

(a) All applications that are to be considered and acted upon by the Department during a calendar year must be received by the Department no later than December 31 of the preceding
calendar year. Any application received on or after January 1 of any calendar year must be held by the Department for consideration and action during the following calendar year.

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

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

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

(e) By July 1 of each calendar year, the Department shall either approve or deny all applications filed by December 31 of the preceding calendar year. If approval of an application
filed by December 31 of any calendar year is not received by July 1 of the following calendar year, the application is denied. If an application is denied, then the Department shall inform the county or municipality of the specific reasons for the denial.

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

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

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

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

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

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

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

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

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

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

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

Section 5.4. Amendment and decertification of Advanced Sciences Zones.

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

1) alter the boundaries of the Advanced Sciences Zone;
2) expand, limit, or repeal tax incentives or benefits provided in the ordinance;
3) alter the termination date of the zone;
4) make technical corrections in the Advanced Sciences Zone designating ordinance, but such an amendment is not effective unless the Department issues an amended certificate for the Advanced Sciences Zone, approving the
amended designating ordinance. Upon the adoption of any ordinance amending or repealing the terms of a certified Advanced Sciences Zone designating ordinance, the municipality or county shall promptly file, with the Department, an application for approval thereof, containing substantially the same information as required for an application under Section 6 insofar as material to the proposed changes. The municipality or county must hold a public hearing on the proposed changes as specified in Section 5 and, if the amendment is to limit tax abatements under Section 5.4.1, then the public notice of the hearing must state that property that is in both the Advanced Sciences Zone and a redevelopment project area may not receive tax abatements unless, within 60 days after the adoption of the amendment to the designating ordinance, the municipality has determined that eligibility for tax abatements has been established;

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

(6) limit tax abatements under Section 5.4.1.

(b) The Department shall approve or disapprove a proposed amendment to a certified Advanced Sciences Zone within 90 days after its receipt of the application from the municipality or county. The Department may not approve changes in a Zone that are not in conformity with this Act or with other applicable
laws. If the Department issues an amended certificate for an
Advanced Sciences Zone, then the amended certificate, together
with the amended zone designating ordinance, must be filed,
recorded, and transmitted as provided in Section 8.

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

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

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

(2) the Department shall place the designating county
or municipality on probationary status for at least 6
months, during which time corrective action may be achieved
in the Advanced Sciences Zone by the designating county or municipality; and

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

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

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

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

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

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

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

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

Section 5.4.1. Adoption of tax increment financing.

(a) If (i) a redevelopment project area is, will be, or has
been created by a municipality under Division 74.4 of the Illinois Municipal Code, (ii) the redevelopment project area contains property that is located in an Advanced Sciences Zone, (iii) the municipality adopts an amendment to the Advanced Sciences zone designating ordinance pursuant to Section 5.4 of this Act specifically concerning the abatement of taxes on property located within a redevelopment project area created pursuant to Division 74.4 of the Illinois Municipal Code, and (iv) the Department certifies the ordinance amendment, then the property that is located in both the Advanced Sciences Zone and the redevelopment project area is not eligible for the abatement of taxes under Section 18-170 of the Property Tax Code.

No business or expansion or individual, however, that has constructed a new improvement or renovated or rehabilitated an existing improvement and has received an abatement on the improvement under Section 18-170 of the Property Tax Code may be denied any benefit previously extended within the zone under this Act or under any other Illinois law providing benefits specifically to or within Advanced Sciences Zones. Moreover, if the business or individual presents evidence to the municipality, within 30 days after the adoption by the municipality of an amendment to the designating ordinance, the sufficiency of which must be determined by findings of the corporate authorities made within 30 days after the receipt of such evidence by the municipality, that before the date of the
notice of the public hearing provided by the municipality regarding the amendment to the designating ordinance (i) the business or expansion or individual was committed to locate within the Advanced Sciences Zone, (ii) substantial and binding financial obligations were made towards the development of the business, and (iii) those commitments were made in reasonable reliance on the benefits and programs that were applicable to the business or individual by reason of the Advanced Sciences Zone, then the business or expansion or individual may not be denied any benefit previously extended within the zone under this Act or under any other Illinois law providing benefits specifically to or within Advanced Sciences zones.

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

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

Section 6. Powers and duties of the Department.

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

(1) To monitor the implementation of this Act and submit reports evaluating the effectiveness of the program
and any suggestions for legislation to the Governor and
General Assembly by October 1 of every year preceding a
regular Session of the General Assembly and to annually
report to the General Assembly initial and current
population, employment, per capita income, number of
business establishments, and dollar value of new
construction and improvements for each Advanced Sciences
Zone.

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

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

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

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

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

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

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

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

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

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

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

(2) establishment of volunteer day care centers;

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

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

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

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

(e) Receive title to publicly owned land.

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

(g) Agree with local governments to provide any public
services within the zones by contracting with private firms and organizations, where feasible and prudent.

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

Section 11. Income tax deduction

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

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

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

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

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

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

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

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

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

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

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

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

Section 11.1. Notification of business cessation. Any
business located within the Advanced Sciences Zone that has
received tax credits or exemptions, regulatory relief, or any
other benefits under this Act shall notify the Department and
the county and municipal officials in which the Advanced
Sciences Zone is located within 60 days after the cessation of
any business operations conducted within the Advanced Sciences
Zone.
Section 12-1. Sections 12-1 through 12-10 of this Act may be cited as the Advanced Sciences Zone Loan Law.

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

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

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

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

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

"Project" means any specific economic development activity of a commercial, industrial, manufacturing, agricultural, scientific, service, or other business in an Advanced Sciences Zone, the result of which yields an increase in jobs and may include the purchase or lease of machinery and equipment, the lease or purchase of real property or funds for infrastructure
necessitated by site preparation, building construction, or related purposes. "Project" does not include refinancing current debt.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

   (d) must be in any principal amount and form and contain any terms and provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, delinquency charges, default remedies, additional security,
and other matters that the Department determines is adequate to protect the public interest.

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

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

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

Section 12-5. Loan applications. Applications for loans must be submitted to the Department on forms and subject to filing fees prescribed by the Department. The Department is not prohibited from soliciting such applications. The Department shall conduct any investigation and obtain any information concerning the business as is necessary and diligent to complete a loan agreement. The Department's investigation must include facts about the company's history, job opportunities, stability of employment, past and present condition and structure, actual and pro-forma income statements, present and
future market prospects, management qualifications, and any other aspect material to the financing request.

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

Section 12-6. Advanced Sciences Zone Loan Fund.

(a) The Advanced Sciences Zone Loan Fund is created as a special fund in the State treasury. The Department is authorized to make loans from the Fund for the purposes established under this Law. The State Treasurer has custody of the Fund and may invest in securities constituting direct obligations of the United States Government, in obligations the principal of and interest on which are guaranteed by the United States Government, or in certificates of deposit of any State or national bank that are fully secured by obligations guaranteed as to principal and interest by the United States Government. The purpose of the Fund is to offer loans to finance firms considering the location of a proposed business in a certified Advanced Sciences Zone and to provide financing to carry out the purposes and provisions of paragraph (h) of Section 12-3 of this Law. This financing must be in the form of
a loan, mortgage, or other debt instrument. All loans must be conditioned on the project receiving financing from participating lenders or other sources. Loan proceeds must be available for project costs associated with an expansion of business capacity and employment, except for debt refinancing. New ventures shall be considered only if the entity is protected with adequate security with regard to its financing and operation. The limitations and conditions with respect to the use of this Fund do not apply in carrying out the purposes and provisions of paragraph (h) of Section 12-3 of this Law.

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

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

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

3. Any appropriations, grants or gifts made to the Fund.

4. Any income received from interest on investments of amounts from the Fund not currently needed to meet the obligations of the Fund.
Section 12-7. Construction. Nothing in this Law may be construed as creating any rights of a competitor of an approved borrower or any applicant whose application is denied by the Department to challenge any application which is accepted by the Department and any loan or other agreement executed in connection therewith.

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

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

Section 12-10. Federal programs. The Department is authorized to accept and expend federal moneys pursuant to this Law except that terms and conditions hereunder that are inconsistent with or prohibited by the federal authorization under which such moneys are made available do apply with
Section 13. Advanced sciences investment tax credit.

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

For the purposes of this subsection:

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

"Tangible personal property" and "other tangible property" includes buildings and structural components of buildings acquired, constructed, reconstructed, or leased with situs in Illinois and principally used in the
production of advanced sciences products:
(1) is depreciable pursuant to 26 USC. Section 167,
(2) has a useful life of 4 years or more, and
(3) is acquired by purchase as defined in 26 U.S.C.
§ 179(d), or
(4) is acquired by lease based on the fair market
value of the property at the inception of the lease
times the portion of the depreciable life of the
property represented by the term of the lease,
excluding renewal options, for a term of twenty (20)
years; and
(5) does not include vehicles or furniture.
"Employees" means those that work a minimum of 30 hours
per week within the State with benefits typical to the
advanced sciences industry.
"Wages" means all remuneration paid for personal
services, including commissions and bonuses and the cash
value of all remuneration paid in any medium other than
cash and all other remuneration which is defined as taxable
wages by the Internal Revenue Service, as certified by the
department of labor and training.
(b) Except as provided under subsection (c), if the amount
of credit allowable for any taxable year is less than the
amount of credit available to the taxpayer, then any amount of
credit not used in the taxable year will be available the
following year or years not to exceed 15 years and may be
deducted from the taxpayer's tax for the year or years.

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

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

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

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

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

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

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


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

(b) The Department, in cooperation with the Department of Revenue, shall review and approve applications by new or expanding advanced sciences entities in this State with unused but otherwise allowable carryover of research and development tax credits, and unused but otherwise allowable net operating loss carryover pursuant, to surrender those tax benefits in
exchange for private financial assistance to be made by the business taxpayer that is the recipient of the corporation business tax benefit certificate in an amount equal to at least 75% of the amount of the surrendered tax benefit. Provided that the amount of the surrendered tax benefit for a surrendered research and development tax credit carryover is the amount of the credit, and provided that the amount of the surrendered tax benefit for a surrendered net operating loss carryover is the amount of the loss multiplied by the new or expanding advanced sciences company's anticipated allocation factor for the tax year in which the benefit is transferred and subsequently multiplied by the corporation business tax rate provided pursuant. The Department is authorized to approve the transfer of no more than $50,000,000 each State fiscal year. If the total amount of transferable tax benefits requested to be surrendered by approved applicants exceeds $50,000,000 for State fiscal year, the Department, in cooperation with the Department of Revenue, may not approve the transfer of more than $50,000,000 for State fiscal and shall allocate the transfer of tax benefits by approved companies using the following method:

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

(2) an eligible applicant with more than $250,000 of transferable tax benefits is authorized to surrender a
minimum of $250,000 of its transferable tax benefits;

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

(4) an eligible applicant with more than $250,000 is also authorized to surrender additional transferable tax benefits determined by multiplying the applicant's transferable tax benefits less the minimum transferable tax benefits that company is authorized to surrender under paragraph (2) or (3) of this subsection by a fraction, the numerator of which is the total amount of transferable tax benefits that the authority is authorized to approve less the total amount of transferable tax benefit approved under paragraphs (1), (2), (3), and (5) of this subsection and the denominator of which is the total amount of transferable tax benefits requested to be surrendered by all eligible applicants less the total amount of transferable tax benefits approved under paragraphs (1), (2), (3), and (5) of this subsection.

For purposes of this section transferable tax benefits include an eligible applicant's unused but otherwise allowable
carryover of net operating losses multiplied by the applicant's anticipated allocation factor for the tax year in which the benefit is transferred and subsequently multiplied by the corporation business tax rate as provided plus the total amount of the applicant's unused but otherwise allowable carryover of research and development tax credits. An eligible applicant's transferable tax benefits are limited to net operating losses and research and development tax credits that the applicant requests to surrender in its application to the authority and may not, in total, exceed the maximum amount of tax benefits that the applicant is eligible to surrender.

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

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

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

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

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

(d) The Department shall coordinate the applications for surrender and acquisition of unused but otherwise allowable tax benefits pursuant to this Section in a manner that can best stimulate and encourage the extension of private financial
assistance to new and expanding advanced sciences in this State. The applications shall be submitted and the authority shall approve or disapprove the applications.

The Department shall develop criteria for the approval or disapproval of applications. Such criteria shall include, but need not be limited to, an evaluation of the advanced sciences company's actual or potential scientific and technological viability, a determination that the advanced sciences company's principal products or services are sufficiently innovative to provide a competitive advantage, a determination that the proposed financial assistance will result in significant growth in permanent, full-time employment in the State, a determination made by the authority that the advanced sciences company does not have sufficient resources to operate in the short term or cannot secure financial assistance from venture capital, stock issuance, product sales revenue, a parent corporation or other affiliates, bank or any other method of obtaining capital, and a determination that the financial assistance provided pursuant to this Act demonstrates the prospect of a significant positive change in the applicant's net income. The Department shall establish the weight of importance to be given each criterion used in its application approval process. No application shall be approved in which the advanced sciences company: (1) has demonstrated positive net income in any of the 3 previous 5 full years of ongoing operations as determined on its financial statements;
(2) has demonstrated a ratio in excess of 110% or greater of operating revenues divided by operating expenses in any of the 3 previous 5 full years of operations as determined on its financial statements; or (3) is directly or indirectly at least a majority of the company is owned or controlled by another corporation that has demonstrated positive net income in any of the 3 previous 5 full years of ongoing operations as determined on its financial statements or is part of a consolidated group of affiliated corporations, as filed for federal income tax purposes, that in the aggregate has demonstrated positive net income in any of the 3 previous 5 full years of ongoing operations as determined on its combined financial statements.

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

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

Section 905. The Illinois Income Tax Act is amended by
changing Section 203 and by adding Section 218 as follows:

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

Sec. 203. Base income defined.

(a) Individuals.

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

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

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

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

(C) An amount equal to the amount received during the taxable year as a recovery or refund of real property taxes paid with respect to the taxpayer's
principal residence under the Revenue Act of 1939 and for which a deduction was previously taken under subparagraph (L) of this paragraph (2) prior to July 1, 1991, the retrospective application date of Article 4 of Public Act 87-17. In the case of multi-unit or multi-use structures and farm dwellings, the taxes on the taxpayer's principal residence shall be that portion of the total taxes for the entire property which is attributable to such principal residence;

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

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

(D-10) For taxable years ending after December 31, 1997, an amount equal to any eligible remediation costs that the individual deducted in computing adjusted gross income and for which the individual claims a credit under subsection (l) of Section 201;
(D-15) For taxable years 2001 and thereafter, an amount equal to the bonus depreciation deduction taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code;

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

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

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

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

This paragraph shall not apply to the following:

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

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

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

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

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

(iv) an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person if the taxpayer establishes by clear and convincing evidence that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f).
Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act;

(D-18) For taxable years ending on or after December 31, 2004, an amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under
Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(a)(2)(D-17) of this Act. As used in this subparagraph, the term "intangible expenses and costs" includes (1) expenses, losses, and costs for, or related to, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property; (2) losses incurred, directly or indirectly, from factoring transactions or discounting transactions; (3) royalty, patent, technical, and copyright fees; (4) licensing fees; and (5) other similar expenses and costs. For purposes of this subparagraph, "intangible property" includes patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

(E) For taxable years ending before December 31, 2001, any amount included in such total in respect of any compensation (including but not limited to any compensation paid or accrued to a serviceman while a
prisoner of war or missing in action) paid to a resident by reason of being on active duty in the Armed Forces of the United States and in respect of any compensation paid or accrued to a resident who as a governmental employee was a prisoner of war or missing in action, and in respect of any compensation paid to a resident in 1971 or thereafter for annual training performed pursuant to Sections 502 and 503, Title 32, United States Code as a member of the Illinois National Guard. For taxable years ending on or after December 31, 2001, any amount included in such total in respect of any compensation (including but not limited to any compensation paid or accrued to a serviceman while a prisoner of war or missing in action) paid to a resident by reason of being a member of any component of the Armed Forces of the United States and in respect of any compensation paid or accrued to a resident who as a governmental employee was a prisoner of war or missing in action, and in respect of any compensation paid to a resident in 2001 or thereafter by reason of being a member of the Illinois National Guard. The provisions of this amendatory Act of the 92nd General Assembly are exempt from the provisions of Section 250;

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

(G) The valuation limitation amount;

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

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

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

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

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

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

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

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

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

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

(Q) An amount equal to any amounts included in such total, received by the taxpayer as an acceleration in
the payment of life, endowment or annuity benefits in
advance of the time they would otherwise be payable as
an indemnity for a terminal illness;

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

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

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

(U) For one taxable year beginning on or after
January 1, 1994, an amount equal to the total amount of
tax imposed and paid under subsections (a) and (b) of
Section 201 of this Act on grant amounts received by
the taxpayer under the Nursing Home Grant Assistance
Act during the taxpayer's taxable years 1992 and 1993;
(V) Beginning with tax years ending on or after December 31, 1995 and ending with tax years ending on or before December 31, 2004, an amount equal to the amount paid by a taxpayer who is a self-employed taxpayer, a partner of a partnership, or a shareholder in a Subchapter S corporation for health insurance or long-term care insurance for that taxpayer or that taxpayer's spouse or dependents, to the extent that the amount paid for that health insurance or long-term care insurance may be deducted under Section 213 of the Internal Revenue Code of 1986, has not been deducted on the federal income tax return of the taxpayer, and does not exceed the taxable income attributable to that taxpayer's income, self-employment income, or Subchapter S corporation income; except that no deduction shall be allowed under this item (V) if the taxpayer is eligible to participate in any health insurance or long-term care insurance plan of an employer of the taxpayer or the taxpayer's spouse. The amount of the health insurance and long-term care insurance subtracted under this item (V) shall be determined by multiplying total health insurance and long-term care insurance premiums paid by the taxpayer times a number that represents the fractional percentage of eligible medical expenses under Section 213 of the Internal Revenue Code of 1986 not actually
deducted on the taxpayer's federal income tax return;

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

(X) For taxable year 1999 and thereafter, an amount equal to the amount of any (i) distributions, to the extent includible in gross income for federal income tax purposes, made to the taxpayer because of his or her status as a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim and (ii) items of income, to the extent includible in gross income for federal income tax purposes, attributable to, derived from or in any way related to assets stolen from, hidden from, or otherwise lost to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime immediately prior to, during, and immediately after World War II, including, but not limited to, interest on the proceeds receivable as insurance under policies issued to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime by European insurance companies immediately prior to and during World War II; provided, however, this subtraction from federal
adjusted gross income does not apply to assets acquired
with such assets or with the proceeds from the sale of
such assets; provided, further, this paragraph shall
only apply to a taxpayer who was the first recipient of
such assets after their recovery and who is a victim of
persecution for racial or religious reasons by Nazi
Germany or any other Axis regime or as an heir of the
victim. The amount of and the eligibility for any
public assistance, benefit, or similar entitlement is
not affected by the inclusion of items (i) and (ii) of
this paragraph in gross income for federal income tax
purposes. This paragraph is exempt from the provisions
of Section 250;

(Y) For taxable years beginning on or after January
1, 2002 and ending on or before December 31, 2004,
moneys contributed in the taxable year to a College
Savings Pool account under Section 16.5 of the State
Treasurer Act, except that amounts excluded from gross
income under Section 529(c)(3)(C)(i) of the Internal
Revenue Code shall not be considered moneys
contributed under this subparagraph (Y). For taxable
years beginning on or after January 1, 2005, a maximum
of $10,000 contributed in the taxable year to (i) a
College Savings Pool account under Section 16.5 of the
State Treasurer Act or (ii) the Illinois Prepaid
Tuition Trust Fund, except that amounts excluded from
gross income under Section 529(c)(3)(C)(i) of the Internal Revenue Code shall not be considered moneys contributed under this subparagraph (Y). This subparagraph (Y) is exempt from the provisions of Section 250;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(E-12) For taxable years ending on or after December 31, 2004, an amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly, to a foreign person who would be a member of the same unitary business group but for the fact the foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or
This paragraph shall not apply to the following:

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

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

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

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

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

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

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

(E-13) For taxable years ending on or after December 31, 2004, an amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a
foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence shall not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(b)(2)(E-12) of this Act. As used in this subparagraph, the term "intangible expenses and costs" includes (1) expenses, losses, and costs for, or related to, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property; (2) losses incurred, directly or indirectly, from factoring transactions or discounting
transactions; (3) royalty, patent, technical, and
copyright fees; (4) licensing fees; and (5) other
similar expenses and costs. For purposes of this
subparagraph, "intangible property" includes patents,
patent applications, trade names, trademarks, service
marks, copyrights, mask works, trade secrets, and
similar types of intangible assets.

This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(M) For any taxpayer that is a financial
organization within the meaning of Section 304(c) of this Act, an amount included in such total as interest income from a loan or loans made by such taxpayer to a borrower, to the extent that such a loan is secured by property which is eligible for the Enterprise Zone Investment Credit or the River Edge Redevelopment Zone Investment Credit. To determine the portion of a loan or loans that is secured by property eligible for a Section 201(f) investment credit to the borrower, the entire principal amount of the loan or loans between the taxpayer and the borrower should be divided into the basis of the Section 201(f) investment credit property which secures the loan or loans, using for this purpose the original basis of such property on the date that it was placed in service in the Enterprise Zone or the River Edge Redevelopment Zone. The subtraction modification available to taxpayer in any year under this subsection shall be that portion of the total interest paid by the borrower with respect to such loan attributable to the eligible property as calculated under the previous sentence. This subparagraph (M) is exempt from the provisions of Section 250;

(M-1) For any taxpayer that is a financial organization within the meaning of Section 304(c) of this Act, an amount included in such total as interest
income from a loan or loans made by such taxpayer to a
borrower, to the extent that such a loan is secured by
property which is eligible for the High Impact Business
Investment Credit. To determine the portion of a loan
or loans that is secured by property eligible for a
Section 201(h) investment credit to the borrower, the
entire principal amount of the loan or loans between
the taxpayer and the borrower should be divided into
the basis of the Section 201(h) investment credit
property which secures the loan or loans, using for
this purpose the original basis of such property on the
date that it was placed in service in a federally
designated Foreign Trade Zone or Sub-Zone located in
Illinois. No taxpayer that is eligible for the
deduction provided in subparagraph (M) of paragraph
(2) of this subsection shall be eligible for the
deduction provided under this subparagraph (M-1). The
subtraction modification available to taxpayers in any
year under this subsection shall be that portion of the
total interest paid by the borrower with respect to
such loan attributable to the eligible property as
calculated under the previous sentence;

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

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

(O) An amount equal to: (i) 85% for taxable years ending on or before December 31, 1992, or, a percentage equal to the percentage allowable under Section 243(a)(1) of the Internal Revenue Code of 1986 for taxable years ending after December 31, 1992, of the amount by which dividends included in taxable income and received from a corporation that is not created or organized under the laws of the United States or any state or political subdivision thereof, including, for taxable years ending on or after December 31, 1988, dividends received or deemed received or paid or deemed paid under Sections 951 through 964 of the Internal Revenue Code, exceed the amount of the modification provided under subparagraph (G) of paragraph (2) of
this subsection (b) which is related to such dividends; plus (ii) 100% of the amount by which dividends, included in taxable income and received, including, for taxable years ending on or after December 31, 1988, dividends received or deemed received or paid or deemed paid under Sections 951 through 964 of the Internal Revenue Code, from any such corporation specified in clause (i) that would but for the provisions of Section 1504 (b) (3) of the Internal Revenue Code be treated as a member of the affiliated group which includes the dividend recipient, exceed the amount of the modification provided under subparagraph (G) of paragraph (2) of this subsection (b) which is related to such dividends;

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

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

(R) On and after July 20, 1999, in the case of an attorney-in-fact with respect to whom an interinsurer or a reciprocal insurer has made the election under Section 835 of the Internal Revenue Code, 26 U.S.C.
835, an amount equal to the excess, if any, of the amounts paid or incurred by that interinsurer or reciprocal insurer in the taxable year to the attorney-in-fact over the deduction allowed to that interinsurer or reciprocal insurer with respect to the attorney-in-fact under Section 835(b) of the Internal Revenue Code for the taxable year; the provisions of this subparagraph are exempt from the provisions of Section 250;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Trusts and estates.

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

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

   (A) An amount equal to all amounts paid or accrued to the taxpayer as interest or dividends during the taxable year to the extent excluded from gross income in the computation of taxable income;
(B) In the case of (i) an estate, $600; (ii) a trust which, under its governing instrument, is required to distribute all of its income currently, $300; and (iii) any other trust, $100, but in each such case, only to the extent such amount was deducted in the computation of taxable income;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This paragraph shall not apply to the following:

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

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

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

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

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

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

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

(G-13) For taxable years ending on or after December 31, 2004, an amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity. The addition modification required by this
subparagraph shall be reduced to the extent that dividends were included in base income of the unitary
group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary
business group (including amounts included in gross income pursuant to Sections 951 through 964 of the
Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code)
with respect to the stock of the same person to whom the intangible expenses and costs were directly or
indirectly paid, incurred, or accrued. The preceding sentence shall not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(c)(2)(G-12) of this Act. As used in this subparagraph, the term "intangible expenses and costs" includes: (1) expenses, losses, and costs for or related to the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property; (2) losses incurred, directly or indirectly, from factoring transactions or discounting transactions; (3) royalty, patent, technical, and copyright fees; (4) licensing fees; and (5) other similar expenses and costs. For purposes of this subparagraph, "intangible property" includes patents, patent applications, trade names,
trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

This paragraph shall not apply to the following:

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

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

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

(b) the transaction giving rise to the intangible expense or cost between the taxpayer and the foreign person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects arm's-length terms; or
(iii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly, from a transaction with a foreign person if the taxpayer establishes by clear and convincing evidence, that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f);

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

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

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

(I) The valuation limitation amount;

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

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

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

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

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

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

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

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

(Q) For taxable year 1999 and thereafter, an amount equal to the amount of any (i) distributions, to the extent includible in gross income for federal income tax purposes, made to the taxpayer because of his or her status as a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim and (ii) items of income, to the extent includible in gross income for federal income tax purposes, attributable to, derived from or in any way related to assets stolen from, hidden from, or otherwise lost to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime immediately prior to,
during, and immediately after World War II, including, but not limited to, interest on the proceeds receivable as insurance under policies issued to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime by European insurance companies immediately prior to and during World War II; provided, however, this subtraction from federal adjusted gross income does not apply to assets acquired with such assets or with the proceeds from the sale of such assets; provided, further, this paragraph shall only apply to a taxpayer who was the first recipient of such assets after their recovery and who is a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim. The amount of and the eligibility for any public assistance, benefit, or similar entitlement is not affected by the inclusion of items (i) and (ii) of this paragraph in gross income for federal income tax purposes. This paragraph is exempt from the provisions of Section 250;

(R) For taxable years 2001 and thereafter, for the taxable year in which the bonus depreciation deduction is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each applicable taxable year thereafter, an amount equal to "x", where:
"y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code, but not including the bonus depreciation deduction;

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Partnerships.

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

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

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

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

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

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

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

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

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

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

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

This paragraph shall not apply to the following:

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

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

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

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

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

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

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

(D-8) For taxable years ending on or after December
31, 2004, an amount equal to the amount of intangible
expenses and costs otherwise allowed as a deduction in
computing base income, and that were paid, accrued, or
incurred, directly or indirectly, to a foreign person
who would be a member of the same unitary business
group but for the fact that the foreign person's
business activity outside the United States is 80% or
more of that person's total business activity. The
addition modification required by this subparagraph
shall be reduced to the extent that dividends were
included in base income of the unitary group for the
same taxable year and received by the taxpayer or by a
member of the taxpayer's unitary business group
(including amounts included in gross income pursuant
to Sections 951 through 964 of the Internal Revenue
Code and amounts included in gross income under Section
78 of the Internal Revenue Code) with respect to the
stock of the same person to whom the intangible
expenses and costs were directly or indirectly paid,
incurred or accrued. The preceding sentence shall not
apply to the extent that the same dividends caused a
reduction to the addition modification required under
Section 203(d)(2)(D-7) of this Act. As used in this
subparagraph, the term "intangible expenses and costs"
includes (1) expenses, losses, and costs for, or
related to, the direct or indirect acquisition, use,
maintenance or management, ownership, sale, exchange,
or any other disposition of intangible property; (2)
losses incurred, directly or indirectly, from
factoring transactions or discounting transactions;
(3) royalty, patent, technical, and copyright fees;
(4) licensing fees; and (5) other similar expenses and

costs. For purposes of this subparagraph, "intangible

property" includes patents, patent applications, trade

names, trademarks, service marks, copyrights, mask

works, trade secrets, and similar types of intangible

assets;

This paragraph shall not apply to the following:

(i) any item of intangible expenses or costs

paid, accrued, or incurred, directly or

indirectly, from a transaction with a foreign

person who is subject in a foreign country or

state, other than a state which requires mandatory

unitary reporting, to a tax on or measured by net

income with respect to such item; or

(ii) any item of intangible expense or cost

paid, accrued, or incurred, directly or

indirectly, if the taxpayer can establish, based

on a preponderance of the evidence, both of the

following:

(a) the foreign person during the same

taxable year paid, accrued, or incurred, the

intangible expense or cost to a person that is

not a related member, and

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

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

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

and by deducting from the total so obtained the following amounts:
(E) The valuation limitation amount;

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

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

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

(I) An amount equal to all amounts of income distributable to an entity subject to the Personal Property Tax Replacement Income Tax imposed by subsections (c) and (d) of Section 201 of this Act including amounts distributable to organizations exempt from federal income tax by reason of Section
501(a) of the Internal Revenue Code;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) In general. Subject to the provisions of paragraph
(2) and subsection (b) (3), for purposes of this Section
and Section 803(e), a taxpayer's gross income, adjusted
gross income, or taxable income for the taxable year shall
mean the amount of gross income, adjusted gross income or
taxable income properly reportable for federal income tax
purposes for the taxable year under the provisions of the
Internal Revenue Code. Taxable income may be less than
zero. However, for taxable years ending on or after
December 31, 1986, net operating loss carryforwards from
taxable years ending prior to December 31, 1986, may not
exceed the sum of federal taxable income for the taxable
year before net operating loss deduction, plus the excess
of addition modifications over subtraction modifications for the taxable year. For taxable years ending prior to December 31, 1986, taxable income may never be an amount in excess of the net operating loss for the taxable year as defined in subsections (c) and (d) of Section 172 of the Internal Revenue Code, provided that when taxable income of a corporation (other than a Subchapter S corporation), trust, or estate is less than zero and addition modifications, other than those provided by subparagraph (E) of paragraph (2) of subsection (b) for corporations or subparagraph (E) of paragraph (2) of subsection (c) for trusts and estates, exceed subtraction modifications, an addition modification must be made under those subparagraphs for any other taxable year to which the taxable income less than zero (net operating loss) is applied under Section 172 of the Internal Revenue Code or under subparagraph (E) of paragraph (2) of this subsection (e) applied in conjunction with Section 172 of the Internal Revenue Code.

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

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

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

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

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

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

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

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

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

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

(f) Valuation limitation amount.

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

(A) The sum of the pre-August 1, 1969 appreciation
amounts (to the extent consisting of gain reportable
under the provisions of Section 1245 or 1250 of the Internal Revenue Code) for all property in respect of which such gain was reported for the taxable year; plus

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

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

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

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

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

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

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

(Source: P.A. 93-812, eff. 7-26-04; 93-840, eff. 7-30-04;
Sec. 218. Advanced Sciences Zone credit.

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

(b) If the taxpayer is a partnership or Subchapter S corporation, the credit is allowed to the partners or shareholders in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.

(c) The credit may be carried forward or back as set forth under Sections 13 or 14 of the Advanced Sciences Zone Act.

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

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