



Sen. Toi W. Hutchinson

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1 AMENDMENT TO HOUSE BILL 1883

2 AMENDMENT NO. _____. Amend House Bill 1883 by replacing
3 everything after the enacting clause with the following:

4 "Article 1. Findings

5 Section 1-1. Legislative findings.

6 (1) The House of Representatives adopted House Resolution
7 110 on March 8, 2011, setting forth the estimates of general
8 funds the House expects to be available during State fiscal
9 year 2012.

10 (2) In determining the estimates of general funds expected
11 to be available during State fiscal year 2012, the House
12 Revenue & Finance Committee assumed that the State would not
13 collect approximately \$600,000,000 of income tax revenues due
14 to the allowance of special bonus depreciation rules approved
15 by the federal government.

16 (3) The House of Representatives adopted House Resolution

1 158 on March 30, 2011, which provides that if the actual amount
2 of funds from State sources that become available during State
3 fiscal year 2012 exceeds the House's estimates set forth in
4 House Resolution 110, then that excess shall first be used to
5 reduce the backlog of unpaid State obligations to the extent
6 authorized by law.

7 (4) These concepts are prudent and should be continued for
8 State fiscal year 2013 and beyond.

9 (5) As the House Revenue & Finance Committee develops the
10 estimates of general funds expected to be available during
11 State fiscal year 2013, an estimated \$250,000,000 of income tax
12 revenues in excess of the State fiscal year 2012 budgeted
13 amount will become available due to the phasing out of the
14 allowance of special bonus depreciation rules approved by the
15 federal government.

16 (6) Therefore, the General Assembly finds that a tax
17 incentive package that does not exceed \$250,000,000 in State
18 fiscal year 2013 can be approved without any negative impact to
19 the State budget in State fiscal years 2012 and 2013 while
20 providing tax relief to a large number of Illinois individual
21 and business taxpayers.

22 Article 5. Illinois Independent Tax Tribunal Act

23 Section 5-1. Short title. This Article may be cited as the
24 Illinois Independent Tax Tribunal Act.

1 Section 5-5. Independent Tax Tribunal Board; Department of
2 Revenue.

3 (a) On and after July 1, 2013, the Department of Revenue,
4 or any successor agency, shall no longer hear and act upon (i)
5 any protests of notices of tax liability or deficiencies for
6 all taxes administered by the Department or (ii) revocations of
7 licenses issued by the Department of Revenue.

8 (b) Beginning July 1, 2013, an Independent Tax Tribunal
9 Board shall assume, exercise, and administer all rights,
10 powers, duties, and responsibilities pertaining to (i) any
11 protests of notices of tax liability or deficiencies for all
12 taxes administered by the Department of Revenue or (ii)
13 revocations of licenses issued by the Department of Revenue.
14 The Independent Tax Tribunal Board shall be created by law and
15 no State agency shall assume the functions of the Board.

16 Article 10. Live Theater Production Tax Credit Act

17 Section 10-1. Short title. This Article may be cited as the
18 Live Theater Production Tax Credit Act. References in this
19 Article to "this Act" mean this Article.

20 Section 10-5. Purpose. The Illinois economy depends
21 heavily on the commercial for-profit live theater industry and
22 the pre-Broadway and long-run shows that are presented in

1 Illinois. As a result of intense competition from other
2 prominent theater cities in the United States and abroad in
3 attracting pre-Broadway and long-run shows, Illinois must move
4 aggressively with new business development investment tools so
5 that Illinois is more competitive in site location decision
6 making for show producers. In an increasingly global economy,
7 Illinois' long term development will benefit from the rational,
8 strategic use of State resources in support of pre-Broadway
9 live theater and long run show development and growth. It is
10 the purpose of this Act to preserve and expand the existing
11 work force used in live theater and enhance the marketing of
12 the presentation of live theater in Illinois. It shall be the
13 policy of this State to promote and encourage the training and
14 hiring of Illinois residents who represent the diversity of the
15 Illinois population through the creation and implementation of
16 training, education, and recruitment programs organized in
17 cooperation with Illinois colleges and universities, labor
18 organizations, and the commercial for-profit live theater
19 industry.

20 Section 10-10. Definitions. As used in this Act:

21 "Accredited theater production" means a for-profit live
22 stage presentation in a qualified production facility, as
23 defined in this Section, that is either (i) a pre-Broadway
24 production or (ii) a long-run production for which the
25 aggregate Illinois labor and marketing expenditures exceed

1 \$100,000.

2 "Pre-Broadway production" means a live stage production
3 that, in its original or adaptive version, is performed in a
4 qualified production facility having a presentation scheduled
5 for Broadway's Theater District in New York City within 12
6 months after its Illinois presentation.

7 "Long-run production" means a live stage production that is
8 performed in a qualified production facility for longer than 8
9 weeks, with at least 6 performances per week, and includes a
10 production that spans the end of one tax year and the
11 commencement of a new tax year that, in combination, meets the
12 criteria set forth in this definition making it a long-run
13 production eligible for a theater tax credit award in each tax
14 year or portion thereof.

15 "Accredited theater production certificate" means a
16 certificate issued by the Department certifying that the
17 production is an accredited theater production that meets the
18 guidelines of this Act.

19 "Applicant" means a taxpayer that is a theater producer,
20 owner, licensee, operator, or presenter that is presenting or
21 has presented a live stage presentation located within the
22 State of Illinois who:

23 (1) owns or licenses the theatrical rights of the stage
24 presentation for the Illinois production period; or

25 (2) has contracted or will contract directly with the
26 owner or licensee of the theatrical rights or a person

1 acting on behalf of the owner or licensee to provide live
2 performances of the production.

3 An applicant that directly or indirectly owns, controls, or
4 operates multiple qualified production facilities shall be
5 presumed to be and considered for the purposes of this Act to
6 be a single applicant; provided, however, that as to each of
7 the applicant's qualified production facilities, the applicant
8 shall be eligible to separately and contemporaneously (i) apply
9 for and obtain accredited theater production certificates,
10 (ii) stage accredited theater productions, and (iii) apply for
11 and receive a tax credit award certificate for each of
12 applicant's accredited theater productions performed at each
13 of the applicant's qualified production facilities.

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

16 "Director" means the Director of the Department.

17 "Illinois labor expenditure" means gross salary or wages
18 including, but not limited to, taxes, benefits, and any other
19 consideration incurred or paid to non-talent employees of the
20 applicant for services rendered to and on behalf of the
21 accredited theater production. To qualify as an Illinois labor
22 expenditure, the expenditure must be:

23 (1) incurred or paid by the applicant on or after the
24 effective date of the Act for services related to any
25 portion of an accredited theater production from its
26 pre-production stages, including, but not limited to, the

1 writing of the script, casting, hiring of service
2 providers, purchases from vendors, marketing, advertising,
3 public relations, load in, rehearsals, performances, other
4 accredited theater production related activities, and load
5 out;

6 (2) directly attributable to the accredited theater
7 production;

8 (3) limited to the first \$100,000 of wages incurred or
9 paid to each employee of an accredited theater production
10 in each tax year;

11 (4) included in the federal income tax basis of the
12 property;

13 (5) paid in the tax year for which the applicant is
14 claiming the tax credit award, or no later than 60 days
15 after the end of the tax year;

16 (6) paid to persons residing in Illinois at the time
17 payments were made; and

18 (7) reasonable in the circumstances.

19 "Illinois production spending" means any and all expenses
20 directly or indirectly incurred relating to an accredited
21 theater production presented in any qualified production
22 facility of the applicant, including, but not limited to,
23 expenditures for:

24 (1) national marketing, public relations, and the
25 creation and placement of print, electronic, television,
26 billboard, and other forms of advertising; and

1 (2) the construction and fabrication of scenic
2 materials and elements; provided, however, that the
3 maximum amount of expenditures attributable to the
4 construction and fabrication of scenic materials and
5 elements eligible for a tax credit award shall not exceed
6 \$500,000 per applicant per production in any single tax
7 year.

8 "Qualified production facility" means a facility located
9 in the State in which live theatrical productions are, or are
10 intended to be, exclusively presented that contains at least
11 one stage, a seating capacity of 1,200 or more seats, and
12 dressing rooms, storage areas, and other ancillary amenities
13 necessary for the accredited theater production.

14 "Tax credit award" means the issuance to a taxpayer by the
15 Department of a tax credit award in conformance with Sections
16 10-40 and 10-45 of this Act.

17 "Tax year" means a calendar year for the period January 1
18 to and including December 31.

19 Section 10-15. Powers of the Department. The Department, in
20 addition to those powers granted under the Civil Administrative
21 Code of Illinois, is granted and has all the powers necessary
22 or convenient to carry out and effectuate the purposes and
23 provisions of this Act, including, but not limited to, the
24 power and authority to:

25 (1) adopt rules deemed necessary and appropriate for

1 the administration of the Tax Credit Award program;
2 establish forms for applications, notifications,
3 contracts, or any other agreements; and accept
4 applications at any time during the year;

5 (2) assist applicants pursuant to the provisions of
6 this Act to promote, foster, and support live theater
7 development and production and its related job creation or
8 retention within the State;

9 (3) gather information and conduct inquiries, in the
10 manner and by the methods set forth in this Act, required
11 for the Department to comply with Section 10-40 and,
12 without limitation, obtain information with respect to
13 applicants for the purpose of making any designations or
14 certifications necessary or desirable to assist the
15 Department with any recommendation or guidance in the
16 furtherance of the purposes of this Act and relating to
17 applicants' participation in training, education, and
18 recruitment programs that are organized in cooperation
19 with Illinois colleges and universities or labor
20 organizations designed to promote and encourage the
21 training and hiring of Illinois residents who represent the
22 diversity of the Illinois population;

23 (4) provide for sufficient personnel to permit
24 administrative, staffing, operating, and related support
25 required to adequately discharge its duties and
26 responsibilities described in this Act from funds as may be

1 appropriated by the General Assembly for the
2 administration of this Act; and

3 (5) require that the applicant at all times keep proper
4 books and records of accounts relating to the tax credit
5 award, in accordance with generally accepted accounting
6 principles consistently applied, and make, upon reasonable
7 written request by the Department, those books and records
8 available for reasonable Department inspection and audit
9 during the applicant's normal business hours. Any
10 documents or data made available to or received from the
11 applicant by any agent, employee, officer, or service
12 provider to the Department shall be deemed confidential and
13 shall not constitute public records to the extent that the
14 documents or data consist of commercial or financial
15 information regarding the operation by the applicant of any
16 theater or any accredited theater production, or any
17 recipient of any tax credit award under this Act.

18 Section 10-20. Tax credit award. Subject to the conditions
19 set forth in this Act, an applicant is entitled to a tax credit
20 award as approved by the Department for qualifying Illinois
21 labor expenditures and Illinois production spending for each
22 tax year in which the applicant is awarded an accredited
23 theater production certificate issued by the Department. The
24 amount of tax credits awarded pursuant to this Act shall not
25 exceed \$2,000,000 in any fiscal year. Credits shall be awarded

1 on a first-come, first-served basis. Notwithstanding the
2 foregoing, if the amount of credits applied for in any fiscal
3 year exceeds the amount authorized to be awarded under this
4 Section, the excess credit amount shall be awarded in the next
5 fiscal year in which credits remain available for award and
6 shall be treated as having been applied for on the first day of
7 that fiscal year.

8 Section 10-25. Application for certification of accredited
9 theater production. Any applicant proposing an accredited
10 theater production located or planned to be located in Illinois
11 may request an accredited theater production certificate by
12 application to the Department.

13 Section 10-30. Review of application for accredited
14 theater production certificate.

15 (a) The Department shall issue an accredited theater
16 production certificate to an applicant if it finds that by a
17 preponderance the following conditions exist:

18 (1) the applicant intends to make the expenditure in
19 the State required for certification of the accredited
20 theater production;

21 (2) the applicant's accredited theater production is
22 economically sound and will benefit the people of the State
23 of Illinois by increasing opportunities for employment and
24 will strengthen the economy of Illinois;

1 (3) the following requirements related to the
2 implementation of a diversity plan have been met: (i) the
3 applicant has filed with the Department a diversity plan
4 outlining specific goals for hiring Illinois labor
5 expenditure eligible minority persons and females, as
6 defined in the Business Enterprise for Minorities,
7 Females, and Persons with Disabilities Act, and for using
8 vendors receiving certification under the Business
9 Enterprise for Minorities, Females, and Persons with
10 Disabilities Act; (ii) the Department has approved the plan
11 as meeting the requirements established by the Department
12 and verified that the applicant has met or made good faith
13 efforts in achieving those goals; and (iii) the Department
14 has adopted any rules that are necessary to ensure
15 compliance with the provisions set forth in this paragraph
16 and necessary to require that the applicant's plan reflects
17 the diversity of the population of this State;

18 (4) the applicant's accredited theater production
19 application indicates whether the applicant intends to
20 participate in training, education, and recruitment
21 programs that are organized in cooperation with Illinois
22 colleges and universities, labor organizations, and the
23 holders of accredited theater production certificates and
24 are designed to promote and encourage the training and
25 hiring of Illinois residents who represent the diversity of
26 Illinois;

1 (5) if not for the tax credit award, the applicant's
2 accredited theater production would not occur in Illinois,
3 which may be demonstrated by any means, including, but not
4 limited to, evidence that: (i) the applicant, presenter,
5 owner, or licensee of the production rights has other state
6 or international location options at which to present the
7 production and could reasonably and efficiently locate
8 outside of the State, (ii) at least one other state or
9 nation could be considered for the production, (iii) the
10 receipt of the tax award credit is a major factor in the
11 decision of the applicant, presenter, production owner or
12 licensee as to where the production will be presented and
13 that without the tax credit award the applicant likely
14 would not create or retain jobs in Illinois, or (iv)
15 receipt of the tax credit award is essential to the
16 applicant's decision to create or retain new jobs in the
17 State; and

18 (6) the tax credit award will result in an overall
19 positive impact to the State, as determined by the
20 Department using the best available data.

21 (b) If any of the provisions in this Section conflict with
22 any existing collective bargaining agreements, the terms and
23 conditions of those collective bargaining agreements shall
24 control.

25 (c) The Department shall act expeditiously regarding
26 approval of applications for accredited theater production

1 certificates so as to accommodate the pre-production work,
2 booking, commencement of ticket sales, determination of
3 performance dates, load in, and other matters relating to the
4 live theater productions for which approval is sought.

5 Section 10-35. Training programs for skills in critical
6 demand. To accomplish the purposes of this Act, the Department
7 may use the training programs provided under Section 605-800 of
8 the Department of Commerce and Economic Opportunity Law of the
9 Civil Administrative Code of Illinois.

10 Section 10-40. Issuance of Tax Credit Award Certificate.

11 (a) In order to qualify for a tax credit award under this
12 Act, an applicant must file an application for each accredited
13 theater production at each of the applicant's qualified
14 production facilities, on forms prescribed by the Department,
15 providing information necessary to calculate the tax credit
16 award and any additional information as reasonably required by
17 the Department.

18 (b) Upon satisfactory review of the application, the
19 Department shall issue a tax credit award certificate stating
20 the amount of the tax credit award to which the applicant is
21 entitled for that tax year and shall contemporaneously notify
22 the applicant and Illinois Department of Revenue in accordance
23 with Section 222 of the Illinois Income Tax Act.

1 Section 10-45. Amount and payment of the tax credit award.
2 The tax credit award shall be calculated each tax year based
3 upon the filing by the applicant on forms prescribed by the
4 Department containing information regarding qualifying and
5 quantified Illinois labor expenditures, as defined in Section
6 10-10, net of the limitation in that Section, and Illinois
7 production spending, as defined in Section 10-10, net of the
8 limitation in that Section. From the amount calculated, the
9 applicant shall be entitled to receive a tax credit award of up
10 to:

11 (1) 20% of the Illinois labor expenditures for each tax
12 year; plus

13 (2) 20% of the Illinois production spending for each
14 tax year; plus

15 (3) 15% of the Illinois labor expenditures generated by
16 the employment of Illinois residents in geographic areas of
17 high poverty or high unemployment in each tax year, as
18 determined by the Department.

19 Following the Department's determination of the tax credit
20 award, the Department shall issue the tax credit award to the
21 applicant.

22 Section 10-50. Live theater tax credit award program
23 evaluation and reports.

24 (a) The Department's live theater tax credit award
25 evaluation must include:

1 (i) an assessment of the effectiveness of the program
2 in creating and retaining new jobs in Illinois;

3 (ii) an assessment of the revenue impact of the
4 program;

5 (iii) in the discretion of the Department, a review of
6 the practices and experiences of other states or nations
7 with similar programs; and

8 (iv) an assessment of the overall success of the
9 program. The Department may make a recommendation to
10 extend, modify, or not extend the program based on the
11 evaluation.

12 (b) At the end of each fiscal quarter, the Department shall
13 submit to the General Assembly a report that includes, without
14 limitation:

15 (i) an assessment of the economic impact of the
16 program, including the number of jobs created and retained,
17 and whether the job positions are entry level, management,
18 vendor, or production related;

19 (ii) the amount of accredited theater production
20 spending brought to Illinois, including the amount of
21 spending and type of Illinois vendors hired in connection
22 with an accredited theater production; and

23 (iii) a determination of whether those receiving
24 qualifying Illinois labor expenditure salaries or wages
25 reflect the geographical, racial and ethnic, gender, and
26 income level diversity of the State of Illinois.

1 (c) At the end of each fiscal year, the Department shall
2 submit to the General Assembly a report that includes, without
3 limitation:

4 (i) the identification of each vendor that provided
5 goods or services that were included in an accredited
6 theater production's Illinois production spending;

7 (ii) a statement of the amount paid to each identified
8 vendor by the accredited theater production and whether the
9 vendor is a minority or female owned business as defined in
10 Section 2 of the Business Enterprise for Minorities,
11 Females, and Persons with Disabilities Act; and

12 (iii) a description of the steps taken by the
13 Department to encourage accredited theater productions to
14 use vendors who are minority or female owned businesses.

15 Section 10-55. Program terms and conditions. Any
16 documentary materials or data made available or received from
17 an applicant by any agent or employee of the Department are
18 confidential and are not public records to the extent that the
19 materials or data consist of commercial or financial
20 information regarding the operation of or the production of the
21 applicant or recipient of any tax credit award under this Act.

22 Section 10-80. The Illinois Income Tax Act is amended by
23 adding Section 222 as follows:

1 (35 ILCS 5/222 new)

2 Sec. 222. Live theater production credit.

3 (a) For tax years beginning on or after January 1, 2012, a
4 taxpayer who has received a tax credit award under the Live
5 Theater Production Tax Credit Act is entitled to a credit
6 against the taxes imposed under subsections (a) and (b) of
7 Section 201 of this Act in an amount determined under that Act
8 by the Department of Commerce and Economic Opportunity.

9 (b) If the taxpayer is a partnership, limited liability
10 partnership, limited liability company, or Subchapter S
11 corporation, the tax credit award is allowed to the partners,
12 unit holders, or shareholders in accordance with the
13 determination of income and distributive share of income under
14 Sections 702 and 704 and Subchapter S of the Internal Revenue
15 Code.

16 (c) A sale, assignment, or transfer of the tax credit award
17 may be made by the taxpayer earning the credit within one year
18 after the credit is awarded in accordance with rules adopted by
19 the Department of Commerce and Economic Opportunity.

20 (d) The Department of Revenue, in cooperation with the
21 Department of Commerce and Economic Opportunity, shall adopt
22 rules to enforce and administer the provisions of this Section.

23 (e) The tax credit award may not be carried back. If the
24 amount of the credit exceeds the tax liability for the year,
25 the excess may be carried forward and applied to the tax
26 liability of the 5 tax years following the excess credit year.

1 The tax credit award shall be applied to the earliest year for
2 which there is a tax liability. If there are credits from more
3 than one tax year that are available to offset liability, the
4 earlier credit shall be applied first. In no event may a credit
5 under this Section reduce the taxpayer's liability to less than
6 zero.

7 Article 15. Amendatory Provisions

8 Section 15-5. The Economic Development Area Tax Increment
9 Allocation Act is amended by changing Sections 3, 4, 5, 8, 9,
10 and 11 and by adding Sections 4.5 and 4.7 as follows:

11 (20 ILCS 620/3) (from Ch. 67 1/2, par. 1003)

12 Sec. 3. Definitions. In this Act, words or terms shall have
13 the following meanings unless the context or usage clearly
14 indicates that another meaning is intended.

15 (a) "Department" means the Department of Commerce and
16 Economic Opportunity.

17 (b) "Economic development plan" means the written plan of a
18 municipality which sets forth an economic development program
19 for an economic development project area. Each economic
20 development plan shall include but not be limited to (1)
21 estimated economic development project costs, (2) the sources
22 of funds to pay such costs, (3) the nature and term of any
23 obligations to be issued by the municipality to pay such costs,

1 (4) the most recent equalized assessed valuation of the
2 economic development project area, (5) an estimate of the
3 equalized assessed valuation of the economic development
4 project area after completion of an economic development
5 project, (6) the estimated date of completion of any economic
6 development project proposed to be undertaken, (7) a general
7 description of any proposed developer, user, or tenant of any
8 property to be located or improved within the economic
9 development project area, (8) a description of the type,
10 structure and general character of the facilities to be
11 developed or improved in the economic development project area,
12 (9) a description of the general land uses to apply in the
13 economic development project area, (10) a description of the
14 type, class and number of employees to be employed in the
15 operation of the facilities to be developed or improved in the
16 economic development project area, and (11) a commitment by the
17 municipality to fair employment practices and an affirmative
18 action plan with respect to any economic development program to
19 be undertaken by the municipality.

20 (c) "Economic development project" means any development
21 project in furtherance of the objectives of this Act.

22 (d) "Economic development project area" means any improved
23 or vacant area which (1) is located within or partially within
24 or partially without the territorial limits of a municipality,
25 provided that no area without the territorial limits of a
26 municipality shall be included in an economic development

1 project area without the express consent of the Department,
2 acting as agent for the State, (2) is contiguous, (3) is not
3 less in the aggregate than three hundred twenty acres, (4) is
4 suitable for siting by any commercial, manufacturing,
5 industrial, research or transportation enterprise of
6 facilities to include but not be limited to commercial
7 businesses, offices, factories, mills, processing plants,
8 assembly plants, packing plants, fabricating plants,
9 industrial or commercial distribution centers, warehouses,
10 repair overhaul or service facilities, freight terminals,
11 research facilities, test facilities or transportation
12 facilities, whether or not such area has been used at any time
13 for such facilities and whether or not the area has been used
14 or is suitable for other uses, including commercial
15 agricultural purposes, and (5) which has been approved and
16 certified by the Department pursuant to this Act.

17 (e) "Economic development project costs" mean and include
18 the sum total of all reasonable or necessary costs incurred by
19 a municipality incidental to an economic development project,
20 including, without limitation, the following:

21 (1) Costs of studies, surveys, development of plans and
22 specifications, implementation and administration of an
23 economic development plan, personnel and professional service
24 costs for architectural, engineering, legal, marketing,
25 financial, planning, police, fire, public works or other
26 services, provided that no charges for professional services

1 may be based on a percentage of incremental tax revenues;

2 (2) Property assembly costs within an economic development
3 project area, including but not limited to acquisition of land
4 and other real or personal property or rights or interests
5 therein, and specifically including payments to developers or
6 other nongovernmental persons as reimbursement for property
7 assembly costs incurred by such developer or other
8 nongovernmental person;

9 (3) Site preparation costs, including but not limited to
10 clearance of any area within an economic development project
11 area by demolition or removal of any existing buildings,
12 structures, fixtures, utilities and improvements and clearing
13 and grading; and including installation, repair, construction,
14 reconstruction, or relocation of public streets, public
15 utilities, and other public site improvements within or without
16 an economic development project area which are essential to the
17 preparation of the economic development project area for use in
18 accordance with an economic development plan; and specifically
19 including payments to developers or other nongovernmental
20 persons as reimbursement for site preparation costs incurred by
21 such developer or nongovernmental person;

22 (4) Costs of renovation, rehabilitation, reconstruction,
23 relocation, repair or remodeling of any existing buildings,
24 improvements, and fixtures within an economic development
25 project area, and specifically including payments to
26 developers or other nongovernmental persons as reimbursement

1 for such costs incurred by such developer or nongovernmental
2 person;

3 (5) Costs of construction, acquisition, and operation
4 within an economic development project area of public
5 improvements, including but not limited to, publicly-owned
6 buildings, structures, works, utilities or fixtures; provided
7 that no allocation made to the municipality pursuant to
8 subparagraph (A) of paragraph (2) of subsection (g) of Section
9 4 of this Act or subparagraph (A) of paragraph (4) of
10 subsection (g) of Section 4 of this Act shall be used to
11 operate a convention center or similar entertainment complex or
12 venue;

13 (6) Financing costs, including but not limited to all
14 necessary and incidental expenses related to the issuance of
15 obligations, payment of any interest on any obligations issued
16 hereunder which accrues during the estimated period of
17 construction of any economic development project for which such
18 obligations are issued and for not exceeding 36 months
19 thereafter, and any reasonable reserves related to the issuance
20 of such obligations;

21 (7) All or a portion of a taxing district's capital costs
22 resulting from an economic development project necessarily
23 incurred or estimated to be incurred by a taxing district in
24 the furtherance of the objectives of an economic development
25 project, to the extent that the municipality by written
26 agreement accepts and approves such costs;

1 (8) Relocation costs to the extent that a municipality
2 determines that relocation costs shall be paid or is required
3 to make payment of relocation costs by federal or State law;

4 (9) The estimated tax revenues from real property in an
5 economic development project area acquired by a municipality
6 which, according to the economic development plan, is to be
7 used for a private use and which any taxing district would have
8 received had the municipality not adopted tax increment
9 allocation financing for an economic development project area
10 and which would result from such taxing district's levies made
11 after the time of the adoption by the municipality of tax
12 increment allocation financing to the time the current
13 equalized assessed value of real property in the economic
14 development project area exceeds the total initial equalized
15 value of real property in said area;

16 (10) Costs of job training, advanced vocational or career
17 education, including but not limited to courses in
18 occupational, semi-technical or technical fields leading
19 directly to employment, incurred by one or more taxing
20 districts, provided that such costs are related to the
21 establishment and maintenance of additional job training,
22 advanced vocational education or career education programs for
23 persons employed or to be employed by employers located in an
24 economic development project area, and further provided that
25 when such costs are incurred by a taxing district or taxing
26 districts other than the municipality they shall be set forth

1 in a written agreement by or among the municipality and the
2 taxing district or taxing districts, which agreement describes
3 the program to be undertaken, including but not limited to the
4 number of employees to be trained, a description of the
5 training and services to be provided, the number and type of
6 positions available or to be available, itemized costs of the
7 program and sources of funds to pay the same, and the term of
8 the agreement. Such costs include, specifically, the payment by
9 community college districts of costs pursuant to Sections 3-37,
10 3-38, 3-40 and 3-40.1 of the Public Community College Act and
11 by school districts of costs pursuant to Sections 10-22.20a and
12 10-23.3a of The School Code;

13 (11) Private financing costs incurred by developers or
14 other nongovernmental persons in connection with an economic
15 development project, and specifically including payments to
16 developers or other nongovernmental persons as reimbursement
17 for such costs incurred by such developer or other
18 nongovernmental person, provided that:

19 (A) private financing costs shall be paid or reimbursed by
20 a municipality only pursuant to the prior official action of
21 the municipality evidencing an intent to pay or reimburse such
22 private financing costs;

23 (B) except as provided in subparagraph (D), the aggregate
24 amount of such costs paid or reimbursed by a municipality in
25 any one year shall not exceed 30% of such costs paid or
26 incurred by the developer or other nongovernmental person in

1 that year;

2 (C) private financing costs shall be paid or reimbursed by
3 a municipality solely from the special tax allocation fund
4 established pursuant to this Act and shall not be paid or
5 reimbursed from the proceeds of any obligations issued by a
6 municipality;

7 (D) if there are not sufficient funds available in the
8 special tax allocation fund in any year to make such payment or
9 reimbursement in full, any amount of such interest cost
10 remaining to be paid or reimbursed by a municipality shall
11 accrue and be payable when funds are available in the special
12 tax allocation fund to make such payment; and

13 (E) in connection with its approval and certification of an
14 economic development project pursuant to Section 5 of this Act,
15 the Department shall review any agreement authorizing the
16 payment or reimbursement by a municipality of private financing
17 costs in its consideration of the impact on the revenues of the
18 municipality and the affected taxing districts of the use of
19 tax increment allocation financing.

20 (f) "Municipality" means a city, village or incorporated
21 town.

22 (g) "Obligations" means any instrument evidencing the
23 obligation of a municipality to pay money, including without
24 limitation, bonds, notes, installment or financing contracts,
25 certificates, tax anticipation warrants or notes, vouchers,
26 and any other evidence of indebtedness.

1 (h) "Taxing districts" means counties, townships,
2 municipalities, and school, road, park, sanitary, mosquito
3 abatement, forest preserve, public health, fire protection,
4 river conservancy, tuberculosis sanitarium and any other
5 municipal corporations or districts with the power to levy
6 taxes upon property located within the economic development
7 project area.

8 (Source: P.A. 94-793, eff. 5-19-06.)

9 (20 ILCS 620/4) (from Ch. 67 1/2, par. 1004)

10 Sec. 4. Establishment of economic development project
11 areas; ordinance; notice; hearing; changes in economic
12 development plan. Economic development project areas shall be
13 established as follows:

14 (a) The corporate authorities of a municipality shall by
15 ordinance propose the establishment of an economic development
16 project area and fix a time and place for a public hearing, and
17 shall submit a certified copy of the ordinance as adopted to
18 the Department.

19 (b) (1) Notice of the public hearing shall be given by
20 publication and mailing. Notice by publication shall be given
21 by publication at least twice, the first publication to be not
22 more than 30 nor less than 10 days prior to the hearing in a
23 newspaper of general circulation within the taxing districts
24 having property in the proposed economic development project
25 area. Notice by mailing shall be given by depositing such

1 notice together with a copy of the proposed economic
2 development plan in the United States mails by certified mail
3 addressed to the person or persons in whose name the general
4 taxes for the last preceding year were paid on each lot, block,
5 tract, or parcel of land lying within the economic development
6 project area. The notice shall be mailed not less than 10 days
7 prior to the date set for the public hearing. In the event
8 taxes for the last preceding year were not paid, the notice
9 shall also be sent to the persons last listed on the tax rolls
10 within the preceding 3 years as the owners of such property.

11 (2) The notices issued pursuant to this Section shall
12 include the following:

13 (A) The time and place of public hearing;

14 (B) The boundaries of the proposed economic development
15 project area by legal description and by street location where
16 possible;

17 (C) A notification that all interested persons will be
18 given an opportunity to be heard at the public hearing;

19 (D) An invitation for any person to submit alternative
20 proposals or bids for any proposed conveyance, lease, mortgage
21 or other disposition of land within the proposed economic
22 development project area;

23 (E) A description of the economic development plan or
24 economic development project if a plan or project is a subject
25 matter of the hearing; and

26 (F) Such other matters as the municipality may deem

1 appropriate.

2 (3) Not less than 30 days prior to the date set for
3 hearing, the municipality shall give notice by mail as provided
4 in this subsection (b) to all taxing districts, of which
5 taxable property is included in the economic development
6 project area, and to the Department. In addition to the other
7 requirements under this subsection (b), the notice shall
8 include an invitation to the Department and each taxing
9 district to submit comments to the municipality concerning the
10 subject matter of the hearing prior to the date of hearing.

11 (c) At the public hearing any interested person, the
12 Department or any affected taxing district may file written
13 objections with the municipal clerk and may be heard orally
14 with respect to any issues embodied in the notice. The
15 municipality shall hear and determine all alternate proposals
16 or bids for any proposed conveyance, lease, mortgage or other
17 disposition of land and all protests and objections at the
18 hearing, and the hearing may be adjourned to another date
19 without further notice other than a motion to be entered upon
20 the minutes fixing the time and place of the adjourned hearing.
21 Public hearings with regard to an economic development plan,
22 economic development project area, or economic development
23 project may be held simultaneously.

24 (d) At the public hearing or at any time prior to the
25 adoption by the municipality of an ordinance approving an
26 economic development plan, the municipality may make changes in

1 the economic development plan. Changes which (1) alter the
2 exterior boundaries of the proposed economic development
3 project area, (2) substantially affect the general land uses
4 established in the proposed economic development plan, (3)
5 substantially change the nature of the proposed economic
6 development project, (4) change the general description of any
7 proposed developer, user or tenant of any property to be
8 located or improved within the economic development project
9 area, or (5) change the description of the type, class and
10 number of employees to be employed in the operation of the
11 facilities to be developed or improved within the economic
12 development project area shall be made only after notice and
13 hearing pursuant to the procedures set forth in this Section.
14 Changes which do not (1) alter the exterior boundaries of a
15 proposed economic development project area, (2) substantially
16 affect the general land uses established in the proposed
17 economic development plan, (3) substantially change the nature
18 of the proposed economic development project, (4) change the
19 general description of any proposed developer, user or tenant
20 of any property to be located or improved within the economic
21 development project area, or (5) change the description of the
22 type, class and number of employees to be employed in the
23 operation of the facilities to be developed or improved within
24 the economic development project area may be made without
25 further hearing, provided that the municipality shall give
26 notice of its changes by mail to the Department and to each

1 affected taxing district and by publication in a newspaper or
2 newspapers of general circulation within the affected taxing
3 districts. Such notice by mail and by publication shall each
4 occur not later than 10 days following the adoption by
5 ordinance of such changes.

6 (e) At any time within 30 days of the final adjournment of
7 the public hearing, a municipality may, by ordinance, approve
8 the economic development plan, establish the economic
9 development project area, and authorize tax increment
10 allocation financing for such economic development project
11 area. Any ordinance adopted which approves an economic
12 development plan shall contain findings that the developer or
13 any of its successor entities and its subsidiaries ~~economic~~
14 ~~development project~~ shall create or retain not less than 4,250
15 ~~2,000~~ full-time equivalent jobs, that private investment in an
16 amount not less than \$100,000,000 shall occur in the economic
17 development project area, that the economic development
18 project will encourage the increase of commerce and industry
19 within the State, thereby reducing the evils attendant upon
20 unemployment and increasing opportunities for personal income,
21 and that the economic development project will increase or
22 maintain the property, sales and income tax bases of the
23 municipality and of the State. Any ordinance adopted which
24 establishes an economic development project area shall contain
25 the boundaries of such area by legal description and, where
26 possible, by street location. Any ordinance adopted which

1 authorizes tax increment allocation financing shall provide
2 that the ad valorem taxes, if any, arising from the levies upon
3 taxable real property in such economic development project area
4 by taxing districts and tax rates determined in the manner
5 provided in subsection (b) of Section 6 of this Act each year
6 after the effective date of the ordinance until economic
7 development project costs and all municipal obligations
8 financing economic development project costs incurred under
9 this Act have been paid shall be divided as follows:

10 (1) That portion of taxes levied upon each taxable lot,
11 block, tract or parcel of real property which is attributable
12 to the lower of the current equalized assessed value or the
13 initial equalized assessed value of each such taxable lot,
14 block, tract or parcel of real property in the economic
15 development project area shall be allocated to and when
16 collected shall be paid by the county collector to the
17 respective affected taxing districts in the manner required by
18 law in the absence of the adoption of tax increment allocation
19 financing.

20 (2) That portion, if any, of such taxes which is
21 attributable to the increase in the current equalized assessed
22 valuation of each taxable lot, block, tract or parcel of real
23 property in the economic development project area over and
24 above the initial equalized assessed value of each property in
25 the economic development project area shall be allocated to and
26 when collected shall be paid to the municipal treasurer who

1 shall deposit such taxes into a special fund called the special
2 tax allocation fund of the municipality for the purpose of
3 paying economic development project costs and obligations
4 incurred in the payment thereof.

5 (f) After a municipality has by ordinance approved an
6 economic development plan and established an economic
7 development project area, the plan may be amended and the
8 boundaries of the area may be altered only as herein provided.
9 Amendments which (1) alter the exterior boundaries of an
10 economic development project area, (2) substantially affect
11 the general land uses established pursuant to the economic
12 development plan, (3) substantially change the nature of the
13 economic development project, (4) change the general
14 description of any proposed developer, user, or tenant of any
15 property to be located or improved within the economic
16 development project area, or (5) change the description of the
17 type, class and number of employees to be employed in the
18 operation of the facilities to be developed or improved within
19 the economic development project area, shall be made only after
20 notice and hearing pursuant to the procedures set forth in this
21 Section. Amendments which do not (1) alter the boundaries of
22 the economic development project area, (2) substantially
23 affect the general land uses established in the economic
24 development plan, (3) substantially change the nature of the
25 economic development project, (4) change the general
26 description of any proposed developer, user, or tenant of any

1 property to be located or improved within the economic
2 development project area, or (5) change the description of the
3 type, class and number of employees to be employed in the
4 operation of the facilities to be developed or improved within
5 the economic development project area may be made without
6 further hearing, provided that the municipality shall give
7 notice of any amendment by mail to the Department and to each
8 taxing district and by publication in a newspaper or newspapers
9 of general circulation within the affected taxing districts.
10 Such notice by mail and by publication shall each occur not
11 later than 10 days following the adoption by ordinance of any
12 amendments.

13 (g) Extension of economic development project area;
14 allocations; payment of outstanding claims; changes in
15 equalized assessed valuation.

16 (1) Notwithstanding anything to the contrary set forth in
17 this Act, upon the effective date of this amendatory Act of the
18 97th General Assembly, the duration of any existing economic
19 development plan created pursuant to this Act is extended to
20 the duration permitted under this subsection, up to a maximum
21 duration of 15 years.

22 (2) For the purposes of this Section, real estate taxes
23 paid on property within the economic development project area
24 during calendar year 2013 and remitted to the developer and the
25 taxing districts in 2014 shall be the "base amount". Beginning
26 with real estate taxes remitted in 2014, for any economic

1 development plan extended by operation of item (1) of this
2 subsection (g), until such time as all existing obligations, as
3 that term is defined in item (5) of this subsection (g), have
4 been satisfied, the allocation of the special tax allocation
5 fund shall be as follows:

6 (A) All receipts up to the first \$350,000 shall be
7 maintained by the municipality in an escrow account to be
8 used solely for (i) expenses relating to the reports
9 required by Section 4.7 of this Act and (ii) legal expenses
10 incurred in defense of any civil action brought against the
11 municipality relating to the economic development
12 agreement. The escrow account shall be within the scope of
13 the annual audit provided in Section 4.7 of this Act. Each
14 December 31 following a deposit into the escrow account,
15 any unobligated balance in the escrow account shall be
16 distributed to the taxing districts in the same manner and
17 proportion as the most recent distribution by the county
18 collector to the taxing districts in the economic
19 development project area.

20 (B) After the allocation required pursuant to
21 paragraph (A) of this item (2), the next \$5,000,000 of the
22 receipts shall be allocated to the municipality.

23 (C) After the allocations required pursuant to
24 paragraphs (A) and (B) of this item (2), 55% of the
25 remaining receipts shall be allocated to the developer.

26 (D) After the allocations required pursuant to parts

1 (A) and (B) of this item (2), 45% of the remaining receipts
2 shall be allocated to the taxing districts located within
3 the economic development project area, excluding the
4 municipality.

5 (3) For real estate taxes paid in 2012 and remitted to the
6 developer and the taxing districts in 2013 and prior years, the
7 allocation formula contained in any economic development plan
8 in effect immediately prior to the effective date of this
9 amendatory Act of the 97th General Assembly shall apply.

10 (4) Beginning with real estate taxes paid in 2014 and
11 remitted to the developer and the taxing districts in 2015 and
12 each year thereafter, if the taxes paid within the economic
13 development project area change from the base amount, the
14 allocation of the special tax allocation fund shall be as
15 follows:

16 (A) If the amount of current year taxes paid is less
17 than the base amount, then the administrative escrow
18 account shall receive the first \$350,000 of receipts, the
19 municipality shall receive the next \$5,000,000 of
20 receipts, the developer shall receive 55% of receipts over
21 \$5,350,000, and the remaining 45% of receipts over
22 \$5,350,000 shall be distributed to the taxing districts
23 (excluding the municipality) in the same manner and
24 proportion as the most recent distribution by the county
25 collector to those taxing districts in the economic
26 development project area.

1 (B) If the amount of current year taxes paid is greater
2 than the base amount, then 75% of the increase in real
3 estate tax receipts shall be payable to the developer and
4 the remaining 25% of the increase in real estate tax
5 receipts shall be distributed to the taxing districts
6 (including the municipality) pursuant to the formula in
7 this subsection.

8 (5) After (i) all existing obligations and interest thereon
9 have been satisfied, (ii) any excess moneys have been
10 distributed pursuant to this subsection, and (iii) final
11 closing of the books and records of the economic development
12 project area has occurred, the municipality shall adopt an
13 ordinance dissolving the special tax allocation fund for the
14 economic development project area and terminating the
15 designation of the economic development project area as an
16 economic development project area. All excess moneys in the
17 special tax allocation fund shall be distributed to the taxing
18 districts in the same manner and proportion as the most recent
19 distribution by the county collector to those taxing districts
20 in the economic development project area. For the purpose of
21 this subsection (g), "existing obligations" means (i) the
22 obligations of the developer that existed before the base year,
23 as certified by a sworn affidavit of the principal financial
24 officer of the developer attesting that the amounts set forth
25 are true and correct, (ii) obligations of the municipality
26 relating to the payment of the obligations of the developer,

1 and (iii) any amounts payable by taxing districts to the
2 developer for property taxes determined to have been overpaid,
3 to the extent that those amounts payable have been carried
4 forward as an interest bearing note due to the developer. All
5 obligations of the developer due and payable shall be processed
6 and paid in the order received, with the oldest notes to be
7 processed and paid first. Beginning January 1, 2012, all
8 outstanding interest bearing notes shall bear interest at the
9 rate of 4% until paid.

10 (h) Beginning on the effective date of this amendatory Act
11 of the 97th General Assembly, the taxing districts shall meet
12 annually 180 days after the close of the municipal fiscal year,
13 or as soon as the economic development project audit for that
14 fiscal year becomes available, to review the effectiveness and
15 status of the economic development project area up to that
16 date.

17 (Source: P.A. 86-38.)

18 (20 ILCS 620/4.5 new)

19 Sec. 4.5. Recapture.

20 (a) In the event that the developer terminates all of its
21 operations and vacates the redevelopment area within 60 months
22 after the effective date of this amendatory Act of the 97th
23 General Assembly, the developer shall be required to remit to
24 the Department an amount equal to the payments disbursed to the
25 developer in 2014 and subsequent years under the Agreement.

1 Within 30 days after receipt, the Department shall remit such
2 funds to the county collector. The county collector shall
3 thereafter make distribution to the respective taxing
4 districts in the same manner and proportion as the most recent
5 distribution by the county collector to those taxing districts
6 of real property taxes from real property in the economic
7 development project area.

8 (b) In the event the developer fails to maintain 4,250 jobs
9 at any time before the termination of the economic development
10 project area, the developer shall forfeit an amount of its
11 allocations from the special tax allocation fund for that time
12 period in which the developer failed to maintain 4,250 jobs.
13 The amount forfeited shall equal the percentage of the year
14 that the developer failed to maintain 4,250 multiplied by the
15 amount the developer would have received if they maintained
16 4,250 jobs for the entire year. Any funds that are forfeited
17 shall be distributed to the taxing districts in the same manner
18 and proportion as the most recent distribution by the county
19 collector to those taxing districts (inclusive of the
20 municipality) in the economic development project area.

21 (20 ILCS 620/4.7 new)

22 Sec. 4.7. Municipal reports. After the effective date of
23 this amendatory Act of the 97th General Assembly, a
24 municipality shall submit in an electronic format all of the
25 following information for each economic development project

1 area (i) to the State Comptroller and (ii) to all taxing
2 districts overlapping the economic development project area no
3 later than 180 days after the close of each municipal fiscal
4 year or as soon thereafter as the audited financial statements
5 become available:

6 (1) Any amendments to the economic development plan or
7 the economic development project area.

8 (2) Audited financial statements of the special tax
9 allocation fund once a cumulative total of \$100,000 has
10 been deposited into the fund.

11 (3) Certification of the Chief Executive Officer of the
12 municipality that the municipality has complied with all of
13 the requirements of this Act during the preceding fiscal
14 year.

15 (4) An opinion of legal counsel that the municipality
16 is in compliance with this Act.

17 (5) An analysis of the special tax allocation fund that
18 sets forth:

19 (A) the balance in the special tax allocation fund
20 at the beginning of the fiscal year;

21 (B) all amounts deposited in the special tax
22 allocation fund by source;

23 (C) an itemized list of all expenditures from the
24 special tax allocation fund by category of permissible
25 economic development project cost; and

26 (D) the balance in the special tax allocation fund

1 at the end of the fiscal year, including a breakdown of
2 that balance by source and a breakdown of that balance
3 identifying any portion of the balance that is
4 required, pledged, earmarked, or otherwise designated
5 for payment of or securing of obligations and
6 anticipated economic development project costs; any
7 portion of that ending balance that has not been
8 identified or is not identified as being required,
9 pledged, earmarked, or otherwise designated for
10 payment of or securing of obligations or anticipated
11 economic development projects costs shall be
12 designated as surplus as set forth in Section 8 of this
13 Act.

14 (6) A description of all property purchased by the
15 municipality within the economic development project area
16 including:

17 (A) street address;

18 (B) approximate size or description of property;

19 (C) purchase price; and

20 (D) the seller of the property.

21 (7) A statement setting forth all activities
22 undertaken in furtherance of the objectives of the economic
23 development plan, including:

24 (A) any project implemented in the preceding
25 fiscal year;

26 (B) a description of the economic development

1 activities undertaken;

2 (C) a description of any agreements entered into by
3 the municipality with regard to the disposition or
4 redevelopment of any property within the economic
5 development project area;

6 (D) additional information on the use of all funds
7 received under this Act and steps taken by the
8 municipality to achieve the objectives of the economic
9 development plan;

10 (E) information regarding contracts that the
11 municipality's tax increment advisors or consultants
12 have entered into with entities or persons that have
13 received, or are receiving, payments financed by tax
14 increment revenues produced by the same economic
15 development project area; and

16 (F) a review of public and, to the extent possible,
17 private investment actually undertaken on or after the
18 effective date of this amendatory Act of the 97th
19 General Assembly and prior to the date of the report
20 and estimated to be undertaken during the following
21 fiscal year; this review shall, on a project by project
22 basis, set forth the estimated amounts of public and
23 private investment incurred after the effective date
24 of this amendatory Act of the 97th General Assembly and
25 provide the ratio of private investment to public
26 investment to the date of the report and as estimated

1 to the completion of the economic development project.

2 (8) With regard to any obligations issued by the
3 municipality:

4 (A) copies of any official statements; and

5 (B) an analysis prepared by financial advisor or
6 underwriter setting forth: (i) the nature and term of
7 those obligations; and (ii) projected debt service
8 including required reserves and debt coverage.

9 (9) For special tax allocation funds that have
10 experienced cumulative deposits of incremental tax
11 revenues of \$100,000 or more, a certified audit report
12 reviewing compliance with this Act performed by an
13 independent public accountant certified and licensed by
14 the authority of the State of Illinois. The financial
15 portion of the audit must be conducted in accordance with
16 Standards for Audits of Governmental Organizations,
17 Programs, Activities, and Functions adopted by the
18 Comptroller General of the United States (1981), as
19 amended, or the standards specified by Section 8-8-5 of the
20 Illinois Municipal Auditing Law of the Illinois Municipal
21 Code. The audit report shall contain a letter from the
22 independent certified public accountant indicating
23 compliance or noncompliance with the requirements of
24 subsection (e) of Section 3 of this Act.

25 (10) A list of all intergovernmental agreements in
26 effect during the fiscal year to which the municipality is

1 a party and an accounting of any moneys transferred or
2 received by the municipality during that fiscal year
3 pursuant to those intergovernmental agreements.

4 (20 ILCS 620/5) (from Ch. 67 1/2, par. 1005)

5 Sec. 5. Submission to Department; certification by
6 Department; limitation on number of permissible economic
7 development project areas. (a) The municipality shall submit
8 certified copies of any ordinances adopted approving an
9 economic development plan, establishing an economic
10 development project area, and authorizing tax increment
11 allocation financing for such economic development project
12 area to the Department, together with (1) a map of the economic
13 development project area, (2) a copy of the economic
14 development plan as approved, (3) an analysis, and any
15 supporting documents and statistics, demonstrating that the
16 developer or any of its successor entities and its subsidiaries
17 ~~economic development project~~ shall create or retain not less
18 than 4,250 ~~2,000~~ full-time equivalent jobs and that private
19 investment in the amount of not less than \$100,000,000 shall
20 occur in the economic development project area, (4) an estimate
21 of the economic impact of the economic development project and
22 the use of tax increment allocation financing upon the revenues
23 of the municipality and the affected taxing districts, (5) a
24 record of all public hearings had in connection with the
25 establishment of the economic development project area, and (6)

1 such other information as the Department by regulation may
2 require.

3 (b) Upon receipt of an application from a municipality the
4 Department shall review the application to determine whether
5 the economic development project area qualifies as an economic
6 development project area under this Act. At its discretion, the
7 Department may accept or reject the application or may request
8 such additional information as it deems necessary or advisable
9 to aid its review. If any such area is found to be qualified to
10 be an economic development project area, the Department shall
11 approve and certify such economic development project area and
12 shall provide written notice of its approval and certification
13 to the municipality and to the county clerk. In determining
14 whether an economic development project area shall be approved
15 and certified, the Department shall consider (1) whether,
16 without public intervention, the State would suffer
17 substantial economic dislocation, such as relocation of a
18 commercial business or industrial or manufacturing facility to
19 another state, territory or country, or would not otherwise
20 benefit from private investment offering substantial
21 employment opportunities and economic growth, and (2) the
22 impact on the revenues of the municipality and the affected
23 taxing districts of the use of tax increment allocation
24 financing in connection with the economic development project.

25 (c) On or before the date which is 18 months following the
26 date on which this Act becomes law, the Department shall submit

1 to the General Assembly a report detailing the number of
2 economic development project areas it has approved and
3 certified, the number and type of jobs created or retained
4 therein, the aggregate amount of private investment therein,
5 the impact on the revenues of municipalities and affected
6 taxing districts of the use of tax increment allocation
7 financing therein, and such additional information as the
8 Department may determine to be relevant. On or after the date
9 which is 20 months following the date on which this Act becomes
10 law the authority granted hereunder to municipalities to
11 establish economic development project areas and to adopt tax
12 increment allocation financing in connection therewith and to
13 the Department to approve and certify economic development
14 project areas shall expire unless the General Assembly shall
15 have authorized municipalities and the Department to continue
16 to exercise the powers granted to them hereunder.

17 (Source: P.A. 86-38.)

18 (20 ILCS 620/8) (from Ch. 67 1/2, par. 1008)

19 Sec. 8. Issuance of obligations for economic development
20 project costs. Obligations secured by the special tax
21 allocation fund provided for in Section 7 of this Act for an
22 economic development project area may be issued to provide for
23 economic development project costs. Those obligations, when so
24 issued, shall be retired in the manner provided in the
25 ordinance authorizing the issuance of the obligations by the

1 receipts of taxes levied as specified in Section 6 of this Act
2 against the taxable property included in the economic
3 development project area and by other revenue designated or
4 pledged by the municipality. A municipality may in the
5 ordinance pledge all or any part of the funds in and to be
6 deposited in the special tax allocation fund created pursuant
7 to Section 7 of this Act to the payment of the economic
8 development project costs and obligations. Whenever a
9 municipality pledges all of the funds to the credit of a
10 special tax allocation fund to secure obligations issued or to
11 be issued to pay economic development project costs, the
12 municipality may specifically provide that funds remaining to
13 the credit of such special tax allocation fund after the
14 payment of such obligations shall be accounted for annually and
15 shall be deemed to be "surplus" funds, and such "surplus" funds
16 shall be distributed as hereinafter provided. Whenever a
17 municipality pledges less than all of the monies to the credit
18 of a special tax allocation fund to secure obligations issued
19 or to be issued to pay economic development project costs, the
20 municipality shall provide that monies to the credit of the
21 special tax allocation fund and not subject to such pledge or
22 otherwise encumbered or required for payment of contractual
23 obligations for specific economic development project costs
24 shall be calculated annually and shall be deemed to be
25 "surplus" funds, and such "surplus" funds shall be distributed
26 as hereinafter provided. All funds to the credit of a special

1 tax allocation fund which are deemed to be "surplus" funds
2 shall be distributed annually within 180 days of the close of
3 the municipality's fiscal year by being paid by the municipal
4 treasurer to the county collector. The county collector shall
5 thereafter make distribution to the respective taxing
6 districts in the same manner and proportion as the most recent
7 distribution by the county collector to those taxing districts
8 of real property taxes from real property in the economic
9 development project area.

10 Without limiting the foregoing in this Section the
11 municipality may, in addition to obligations secured by the
12 special tax allocation fund, pledge for a period not greater
13 than the term of the obligations towards payment of those
14 obligations any part or any combination of the following: (i)
15 net revenues of all or part of any economic development
16 project; (ii) taxes levied and collected on any or all property
17 in the municipality, including, specifically, taxes levied or
18 imposed by the municipality in a special service area pursuant
19 to "An Act to provide the manner of levying or imposing taxes
20 for the provision of special services to areas within the
21 boundaries of home rule units and non-home rule municipalities
22 and counties", approved September 21, 1973, as now or hereafter
23 amended; (iii) the full faith and credit of the municipality;
24 (iv) a mortgage on part or all of the economic development
25 project; or (v) any other taxes or anticipated receipts that
26 the municipality may lawfully pledge.

1 Such obligations may be issued in one or more series
2 bearing interest at such rate or rates as the corporate
3 authorities of the municipality shall determine by ordinance,
4 which rate or rates may be variable or fixed, without regard to
5 any limitations contained in any law now in effect or hereafter
6 adopted. Such obligations shall bear such date or dates, mature
7 at such time or times not exceeding 38 ~~20~~ years from their
8 respective dates, but in no event exceeding 38 ~~23~~ years from
9 the date of establishment of the economic development project
10 area, be in such denomination, be in such form, whether coupon,
11 registered or book-entry, carry such registration, conversion
12 and exchange privileges, be executed in such manner, be payable
13 in such medium of payment at such place or places within or
14 without the State of Illinois, contain such covenants, terms
15 and conditions, be subject to redemption with or without
16 premium, be subject to defeasance upon such terms, and have
17 such rank or priority, as such ordinance shall provide.
18 Obligations issued pursuant to this Act may be sold at public
19 or private sale at such price as shall be determined by the
20 corporate authorities of the municipalities. Such obligations
21 may, but need not, be issued utilizing the provisions of any
22 one or more of the omnibus bond Acts specified in Section 1.33
23 of "An Act to revise the law in relation to the construction of
24 the statutes", approved March 5, 1874, as now or hereafter
25 amended. No referendum approval of the electors shall be
26 required as a condition to the issuance of obligations pursuant

1 to this Act except as provided in this Section.

2 Whenever a municipality issues bonds for the purpose of
3 financing economic development project costs, the municipality
4 may provide by ordinance for the appointment of a trustee,
5 which may be any trust company within the State, and for the
6 establishment of the funds or accounts to be maintained by such
7 trustee as the municipality shall deem necessary to provide for
8 the security and payment of the bonds. If the municipality
9 provides for the appointment of a trustee, the trustee shall be
10 considered the assignee of any payments assigned by the
11 municipality pursuant to the ordinance and this Section. Any
12 amounts paid to the trustee as assignee shall be deposited in
13 the funds or accounts established pursuant to the trust
14 agreement, and shall be held by the trustee in trust for the
15 benefit of the holders of the bonds, and the holders shall have
16 a lien on and a security interest in those bonds or accounts so
17 long as the bonds remain outstanding and unpaid. Upon
18 retirement of the bonds, the trustee shall pay over any excess
19 amounts held to the municipality for deposit in the special tax
20 allocation fund.

21 In the event the municipality authorizes the issuance of
22 obligations pursuant to the authority of this Act secured by
23 the full faith and credit of the municipality, or pledges ad
24 valorem taxes pursuant to clause (ii) of the second paragraph
25 of this Section, which obligations are other than obligations
26 which may be issued under home rule powers provided by Article

1 VII, Section 6 of the Illinois Constitution or which ad valorem
2 taxes are other than ad valorem taxes which may be pledged
3 under home rule powers provided by Article VII, Section 6 of
4 the Illinois Constitution or which are levied in a special
5 service area pursuant to "An Act to provide the manner of
6 levying or imposing taxes for the provision of special services
7 to areas within the boundaries of home rule units and non-home
8 rule municipalities and counties", approved September 21,
9 1973, as now or hereafter amended, the ordinance authorizing
10 the issuance of those obligations or pledging those taxes shall
11 be published within 10 days after the ordinance has been
12 adopted, in one or more newspapers having a general circulation
13 within the municipality. The publication of the ordinance shall
14 be accompanied by a notice of (1) the specific number of voters
15 required to sign a petition requesting the question of the
16 issuance of the obligations or pledging such ad valorem taxes
17 to be submitted to the electors; (2) the time within which the
18 petition must be filed; and (3) the date of the prospective
19 referendum. The municipal clerk shall provide a petition form
20 to any individual requesting one.

21 If no petition is filed with the municipal clerk, as
22 hereinafter provided in this Section, within 21 days after the
23 publication of the ordinance, the ordinance shall be in effect.
24 However, if within that 21 day period a petition is filed with
25 the municipal clerk, signed by electors numbering not less than
26 15% of the number of electors voting for the mayor or president

1 at the last general municipal election, asking that the
2 question of issuing obligations using full faith and credit of
3 the municipality as security for the cost of paying for
4 economic development project costs, or of pledging such ad
5 valorem taxes for the payment of those obligations, or both, be
6 submitted to the electors of the municipality, the municipality
7 shall not be authorized to issue obligations of the
8 municipality using the full faith and credit of the
9 municipality as security or pledging such ad valorem taxes for
10 the payment of those obligations, or both, until the
11 proposition has been submitted to and approved by a majority of
12 the voters voting on the proposition at a regularly scheduled
13 election. The municipality shall certify the proposition to the
14 proper election authorities for submission in accordance with
15 the general election law.

16 The ordinance authorizing the obligations may provide that
17 the obligations shall contain a recital that they are issued
18 pursuant to this Act, which recital shall be conclusive
19 evidence of their validity and of the regularity of their
20 issuance.

21 In the event the municipality authorizes issuance of
22 obligations pursuant to this Act secured by the full faith and
23 credit of the municipality, the ordinance authorizing the
24 obligations may provide for the levy and collection of a direct
25 annual tax upon all taxable property within the municipality
26 sufficient to pay the principal thereof and interest thereon as

1 it matures, which levy may be in addition to and exclusive of
2 the maximum of all other taxes authorized to be levied by the
3 municipality, which levy, however, shall be abated to the
4 extent that monies from other sources are available for payment
5 of the obligations and the municipality certifies the amount of
6 those monies available to the county clerk.

7 A certified copy of the ordinance shall be filed with the
8 county clerk of each county in which any portion of the
9 municipality is situated, and shall constitute the authority
10 for the extension and collection of the taxes to be deposited
11 in the special tax allocation fund.

12 A municipality may also issue its obligations to refund, in
13 whole or in part, obligations theretofore issued by the
14 municipality under the authority of this Act, whether at or
15 prior to maturity. However, the last maturity of the refunding
16 obligations shall not be expressed to mature later than 38 ~~23~~
17 years from the date of the ordinance establishing the economic
18 development project area.

19 In the event a municipality issues obligations under home
20 rule powers or other legislative authority, the proceeds of
21 which are pledged to pay for economic development project
22 costs, the municipality may, if it has followed the procedures
23 in conformance with this Act, retire those obligations from
24 funds in the special tax allocation fund in amounts and in such
25 manner as if those obligations had been issued pursuant to the
26 provisions of this Act.

1 No obligations issued pursuant to this Act shall be
2 regarded as indebtedness of the municipality issuing those
3 obligations or any other taxing district for the purpose of any
4 limitation imposed by law.

5 Obligations issued pursuant to this Act shall not be
6 subject to the provisions of "An Act to authorize public
7 corporations to issue bonds, other evidences of indebtedness
8 and tax anticipation warrants subject to interest rate
9 limitations set forth therein", approved May 26, 1970, as
10 amended.

11 (Source: P.A. 86-38.)

12 (20 ILCS 620/9) (from Ch. 67 1/2, par. 1009)

13 Sec. 9. Powers of municipalities. In addition to powers
14 which it may now have, any municipality has the power under
15 this Act:

16 (a) To make and enter into all contracts necessary or
17 incidental to the implementation and furtherance of an economic
18 development plan.

19 (b) Within an economic development project area, to acquire
20 by purchase, donation, lease or eminent domain, and to own,
21 convey, lease, mortgage or dispose of land and other real or
22 personal property or rights or interests therein; and to grant
23 or acquire licenses, easements and options with respect
24 thereto, all in the manner and at such price the municipality
25 determines is reasonably necessary to achieve the objectives of

1 the economic development project. No conveyance, lease,
2 mortgage, disposition of land or other property acquired by the
3 municipality, or agreement relating to the development of
4 property, shall be made or executed except pursuant to prior
5 official action of the municipality. No conveyance, lease,
6 mortgage or other disposition of land, and no agreement
7 relating to the development of property, shall be made without
8 making public disclosure of the terms and disposition of all
9 bids and proposals submitted to the municipality in connection
10 therewith.

11 (c) To clear any area within an economic development
12 project area by demolition or removal of any existing
13 buildings, structures, fixtures, utilities or improvements,
14 and to clear and grade land.

15 (d) To install, repair, construct, reconstruct or relocate
16 public streets, public utilities, and other public site
17 improvements within or without an economic development project
18 area which are essential to the preparation of an economic
19 development project area for use in accordance with an economic
20 development plan.

21 (e) To renovate, rehabilitate, reconstruct, relocate,
22 repair or remodel any existing buildings, improvements, and
23 fixtures within an economic development project area.

24 (f) To construct, acquire, and operate public
25 improvements, including but not limited to, publicly-owned
26 buildings, structures, works, utilities or fixtures within any

1 economic development project area, subject to the restrictions
2 of item (5) of subsection (e) of Section 3 of this Act.

3 (g) To issue obligations as provided in this Act ~~provided~~.

4 (h) To fix, charge and collect fees, rents and charges for
5 the use of any building, facility or property or any portion
6 thereof owned or leased by the municipality within an economic
7 development project area.

8 (i) To accept grants, guarantees, donations of property or
9 labor, or any other thing of value for use in connection with
10 an economic development project.

11 (j) To pay or cause to be paid economic development project
12 costs. Any payments to be made by the municipality to
13 developers or other nongovernmental persons for economic
14 development project costs incurred by such developer or other
15 nongovernmental person shall be made only pursuant to the prior
16 official action of the municipality evidencing an intent to pay
17 or cause to be paid such economic development project costs. A
18 municipality is not required to obtain any right, title or
19 interest in any real or personal property in order to pay
20 economic development project costs associated with such
21 property. The municipality shall adopt such accounting
22 procedures as may be necessary to determine that such economic
23 development project costs are properly paid.

24 (k) To exercise any and all other powers necessary to
25 effectuate the purposes of this Act.

26 (l) To create a commission of not less than 5 or more than

1 15 persons to be appointed by the mayor or president of the
2 municipality with the consent of the majority of the corporate
3 authorities of the municipality. Members of a commission shall
4 be appointed for initial terms of 1, 2, 3, 4, and 5 years,
5 respectively, in such numbers as to provide that the terms of
6 not more than 1/3 of all such members shall expire in any one
7 year. Their successors shall be appointed for a term of 5
8 years. The commission, subject to approval of the corporate
9 authorities, may exercise the powers enumerated in this
10 Section. The commission shall also have the power to hold the
11 public hearings required by this Act and make recommendations
12 to the corporate authorities concerning the approval of
13 economic development plans, the establishment of economic
14 development project areas, and the adoption of tax increment
15 allocation financing for economic development project areas.

16 (Source: P.A. 91-357, eff. 7-29-99.)

17 (20 ILCS 620/11) (from Ch. 67 1/2, par. 1011)

18 Sec. 11. Payment of project costs; revenues from
19 governmental ~~municipal~~ property. Revenues received by a taxing
20 district ~~municipality~~ from any property, building or facility
21 owned, leased or operated by the taxing district ~~municipality~~
22 or any agency or authority established by the taxing district
23 ~~municipality~~ may be used to pay economic development project
24 costs, or reduce outstanding obligations of the taxing district
25 ~~municipality~~ incurred under this Act for economic development

1 project costs. The taxing district ~~municipality~~ may place those
2 revenues in the special tax allocation fund which shall be held
3 by the ~~municipal~~ treasurer of the taxing district or other
4 person designated by the taxing district ~~municipality~~. Revenue
5 received by a taxing district ~~the municipality~~ from the sale or
6 other disposition of real or personal property or rights or
7 interests therein acquired by a taxing district ~~the~~
8 ~~municipality~~ with the proceeds of obligations funded by tax
9 increment allocation financing may be used to acquire and
10 operate other governmental property that is within the economic
11 development project area or that provides services within the
12 economic development project area, subject to the restrictions
13 of item (5) of subsection (e) of Section 3 of this Act. ~~shall~~
14 ~~be deposited by the municipality in the special tax allocation~~
15 ~~fund.~~

16 (Source: P.A. 86-38.)

17 Section 15-10. The Illinois Income Tax Act is amended by
18 changing Sections 201, 204, 207, 212, 250, 304, 804, and 1501
19 as follows:

20 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

21 Sec. 201. Tax Imposed.

22 (a) In general. A tax measured by net income is hereby
23 imposed on every individual, corporation, trust and estate for
24 each taxable year ending after July 31, 1969 on the privilege

1 of earning or receiving income in or as a resident of this
2 State. Such tax shall be in addition to all other occupation or
3 privilege taxes imposed by this State or by any municipal
4 corporation or political subdivision thereof.

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

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

12 (2) In the case of an individual, trust or estate, for
13 taxable years beginning prior to July 1, 1989 and ending
14 after June 30, 1989, an amount equal to the sum of (i) 2
15 1/2% of the taxpayer's net income for the period prior to
16 July 1, 1989, as calculated under Section 202.3, and (ii)
17 3% of the taxpayer's net income for the period after June
18 30, 1989, as calculated under Section 202.3.

19 (3) In the case of an individual, trust or estate, for
20 taxable years beginning after June 30, 1989, and ending
21 prior to January 1, 2011, an amount equal to 3% of the
22 taxpayer's net income for the taxable year.

23 (4) In the case of an individual, trust, or estate, for
24 taxable years beginning prior to January 1, 2011, and
25 ending after December 31, 2010, an amount equal to the sum
26 of (i) 3% of the taxpayer's net income for the period prior

1 to January 1, 2011, as calculated under Section 202.5, and
2 (ii) 5% of the taxpayer's net income for the period after
3 December 31, 2010, as calculated under Section 202.5.

4 (5) In the case of an individual, trust, or estate, for
5 taxable years beginning on or after January 1, 2011, and
6 ending prior to January 1, 2015, an amount equal to 5% of
7 the taxpayer's net income for the taxable year.

8 (5.1) In the case of an individual, trust, or estate,
9 for taxable years beginning prior to January 1, 2015, and
10 ending after December 31, 2014, an amount equal to the sum
11 of (i) 5% of the taxpayer's net income for the period prior
12 to January 1, 2015, as calculated under Section 202.5, and
13 (ii) 3.75% of the taxpayer's net income for the period
14 after December 31, 2014, as calculated under Section 202.5.

15 (5.2) In the case of an individual, trust, or estate,
16 for taxable years beginning on or after January 1, 2015,
17 and ending prior to January 1, 2025, an amount equal to
18 3.75% of the taxpayer's net income for the taxable year.

19 (5.3) In the case of an individual, trust, or estate,
20 for taxable years beginning prior to January 1, 2025, and
21 ending after December 31, 2024, an amount equal to the sum
22 of (i) 3.75% of the taxpayer's net income for the period
23 prior to January 1, 2025, as calculated under Section
24 202.5, and (ii) 3.25% of the taxpayer's net income for the
25 period after December 31, 2024, as calculated under Section
26 202.5.

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

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

8 (7) In the case of a corporation, for taxable years
9 beginning prior to July 1, 1989 and ending after June 30,
10 1989, an amount equal to the sum of (i) 4% of the
11 taxpayer's net income for the period prior to July 1, 1989,
12 as calculated under Section 202.3, and (ii) 4.8% of the
13 taxpayer's net income for the period after June 30, 1989,
14 as calculated under Section 202.3.

15 (8) In the case of a corporation, for taxable years
16 beginning after June 30, 1989, and ending prior to January
17 1, 2011, an amount equal to 4.8% of the taxpayer's net
18 income for the taxable year.

19 (9) In the case of a corporation, for taxable years
20 beginning prior to January 1, 2011, and ending after
21 December 31, 2010, an amount equal to the sum of (i) 4.8%
22 of the taxpayer's net income for the period prior to
23 January 1, 2011, as calculated under Section 202.5, and
24 (ii) 7% of the taxpayer's net income for the period after
25 December 31, 2010, as calculated under Section 202.5.

26 (10) In the case of a corporation, for taxable years

1 beginning on or after January 1, 2011, and ending prior to
2 January 1, 2015, an amount equal to 7% of the taxpayer's
3 net income for the taxable year.

4 (11) In the case of a corporation, for taxable years
5 beginning prior to January 1, 2015, and ending after
6 December 31, 2014, an amount equal to the sum of (i) 7% of
7 the taxpayer's net income for the period prior to January
8 1, 2015, as calculated under Section 202.5, and (ii) 5.25%
9 of the taxpayer's net income for the period after December
10 31, 2014, as calculated under Section 202.5.

11 (12) In the case of a corporation, for taxable years
12 beginning on or after January 1, 2015, and ending prior to
13 January 1, 2025, an amount equal to 5.25% of the taxpayer's
14 net income for the taxable year.

15 (13) In the case of a corporation, for taxable years
16 beginning prior to January 1, 2025, and ending after
17 December 31, 2024, an amount equal to the sum of (i) 5.25%
18 of the taxpayer's net income for the period prior to
19 January 1, 2025, as calculated under Section 202.5, and
20 (ii) 4.8% of the taxpayer's net income for the period after
21 December 31, 2024, as calculated under Section 202.5.

22 (14) In the case of a corporation, for taxable years
23 beginning on or after January 1, 2025, an amount equal to
24 4.8% of the taxpayer's net income for the taxable year.

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

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

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

26 (d-1) Rate reduction for certain foreign insurers. In the

1 case of a foreign insurer, as defined by Section 35A-5 of the
2 Illinois Insurance Code, whose state or country of domicile
3 imposes on insurers domiciled in Illinois a retaliatory tax
4 (excluding any insurer whose premiums from reinsurance assumed
5 are 50% or more of its total insurance premiums as determined
6 under paragraph (2) of subsection (b) of Section 304, except
7 that for purposes of this determination premiums from
8 reinsurance do not include premiums from inter-affiliate
9 reinsurance arrangements), beginning with taxable years ending
10 on or after December 31, 1999, the sum of the rates of tax
11 imposed by subsections (b) and (d) shall be reduced (but not
12 increased) to the rate at which the total amount of tax imposed
13 under this Act, net of all credits allowed under this Act,
14 shall equal (i) the total amount of tax that would be imposed
15 on the foreign insurer's net income allocable to Illinois for
16 the taxable year by such foreign insurer's state or country of
17 domicile if that net income were subject to all income taxes
18 and taxes measured by net income imposed by such foreign
19 insurer's state or country of domicile, net of all credits
20 allowed or (ii) a rate of zero if no such tax is imposed on such
21 income by the foreign insurer's state of domicile. For the
22 purposes of this subsection (d-1), an inter-affiliate includes
23 a mutual insurer under common management.

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

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

4 (B) the privilege tax imposed by Section 409 of the
5 Illinois Insurance Code, the fire insurance company
6 tax imposed by Section 12 of the Fire Investigation
7 Act, and the fire department taxes imposed under
8 Section 11-10-1 of the Illinois Municipal Code,
9 equals 1.25% for taxable years ending prior to December 31,
10 2003, or 1.75% for taxable years ending on or after
11 December 31, 2003, of the net taxable premiums written for
12 the taxable year, as described by subsection (1) of Section
13 409 of the Illinois Insurance Code. This paragraph will in
14 no event increase the rates imposed under subsections (b)
15 and (d).

16 (2) Any reduction in the rates of tax imposed by this
17 subsection shall be applied first against the rates imposed
18 by subsection (b) and only after the tax imposed by
19 subsection (a) net of all credits allowed under this
20 Section other than the credit allowed under subsection (i)
21 has been reduced to zero, against the rates imposed by
22 subsection (d).

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

25 (e) Investment credit. A taxpayer shall be allowed a credit
26 against the Personal Property Tax Replacement Income Tax for

1 investment in qualified property.

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

1 any credit for qualified property be allowed for any year
2 other than the year in which the property was placed in
3 service in Illinois. For tax years ending on or after
4 December 31, 1987, and on or before December 31, 1988, the
5 credit shall be allowed for the tax year in which the
6 property is placed in service, or, if the amount of the
7 credit exceeds the tax liability for that year, whether it
8 exceeds the original liability or the liability as later
9 amended, such excess may be carried forward and applied to
10 the tax liability of the 5 taxable years following the
11 excess credit years if the taxpayer (i) makes investments
12 which cause the creation of a minimum of 2,000 full-time
13 equivalent jobs in Illinois, (ii) is located in an
14 enterprise zone established pursuant to the Illinois
15 Enterprise Zone Act and (iii) is certified by the
16 Department of Commerce and Community Affairs (now
17 Department of Commerce and Economic Opportunity) as
18 complying with the requirements specified in clause (i) and
19 (ii) by July 1, 1986. The Department of Commerce and
20 Community Affairs (now Department of Commerce and Economic
21 Opportunity) shall notify the Department of Revenue of all
22 such certifications immediately. For tax years ending
23 after December 31, 1988, the credit shall be allowed for
24 the tax year in which the property is placed in service,
25 or, if the amount of the credit exceeds the tax liability
26 for that year, whether it exceeds the original liability or

1 the liability as later amended, such excess may be carried
2 forward and applied to the tax liability of the 5 taxable
3 years following the excess credit years. The credit shall
4 be applied to the earliest year for which there is a
5 liability. If there is credit from more than one tax year
6 that is available to offset a liability, earlier credit
7 shall be applied first.

8 (2) The term "qualified property" means property
9 which:

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

17 (B) is depreciable pursuant to Section 167 of the
18 Internal Revenue Code, except that "3-year property"
19 as defined in Section 168(c)(2)(A) of that Code is not
20 eligible for the credit provided by this subsection
21 (e);

22 (C) is acquired by purchase as defined in Section
23 179(d) of the Internal Revenue Code;

24 (D) is used in Illinois by a taxpayer who is
25 primarily engaged in manufacturing, or in mining coal
26 or fluorite, or in retailing, or was placed in service

1 on or after July 1, 2006 in a River Edge Redevelopment
2 Zone established pursuant to the River Edge
3 Redevelopment Zone Act; and

4 (E) has not previously been used in Illinois in
5 such a manner and by such a person as would qualify for
6 the credit provided by this subsection (e) or
7 subsection (f).

8 (3) For purposes of this subsection (e),
9 "manufacturing" means the material staging and production
10 of tangible personal property by procedures commonly
11 regarded as manufacturing, processing, fabrication, or
12 assembling which changes some existing material into new
13 shapes, new qualities, or new combinations. For purposes of
14 this subsection (e) the term "mining" shall have the same
15 meaning as the term "mining" in Section 613(c) of the
16 Internal Revenue Code. For purposes of this subsection (e),
17 the term "retailing" means the sale of tangible personal
18 property for use or consumption and not for resale, or
19 services rendered in conjunction with the sale of tangible
20 personal property for use or consumption and not for
21 resale. For purposes of this subsection (e), "tangible
22 personal property" has the same meaning as when that term
23 is used in the Retailers' Occupation Tax Act, and, for
24 taxable years ending after December 31, 2008, does not
25 include the generation, transmission, or distribution of
26 electricity.

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

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

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

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

1 (8) Unless the investment credit is extended by law,
2 the basis of qualified property shall not include costs
3 incurred after December 31, 2018 ~~2013~~, except for costs
4 incurred pursuant to a binding contract entered into on or
5 before December 31, 2018 ~~2013~~.

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

22 For taxable years ending on or after December 31, 2000,
23 a partner that qualifies its partnership for a subtraction
24 under subparagraph (I) of paragraph (2) of subsection (d)
25 of Section 203 or a shareholder that qualifies a Subchapter
26 S corporation for a subtraction under subparagraph (S) of

1 paragraph (2) of subsection (b) of Section 203 shall be
2 allowed a credit under this subsection (e) equal to its
3 share of the credit earned under this subsection (e) during
4 the taxable year by the partnership or Subchapter S
5 corporation, determined in accordance with the
6 determination of income and distributive share of income
7 under Sections 702 and 704 and Subchapter S of the Internal
8 Revenue Code. This paragraph is exempt from the provisions
9 of Section 250.

10 (f) Investment credit; Enterprise Zone; River Edge
11 Redevelopment Zone.

12 (1) A taxpayer shall be allowed a credit against the
13 tax imposed by subsections (a) and (b) of this Section for
14 investment in qualified property which is placed in service
15 in an Enterprise Zone created pursuant to the Illinois
16 Enterprise Zone Act or, for property placed in service on
17 or after July 1, 2006, a River Edge Redevelopment Zone
18 established pursuant to the River Edge Redevelopment Zone
19 Act. For partners, shareholders of Subchapter S
20 corporations, and owners of limited liability companies,
21 if the liability company is treated as a partnership for
22 purposes of federal and State income taxation, there shall
23 be allowed a credit under this subsection (f) to be
24 determined in accordance with the determination of income
25 and distributive share of income under Sections 702 and 704
26 and Subchapter S of the Internal Revenue Code. The credit

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

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

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

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

1 (C) is acquired by purchase as defined in Section
2 179(d) of the Internal Revenue Code;

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

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

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

12 (4) If the basis of the property for federal income tax
13 depreciation purposes is increased after it has been placed
14 in service in the Enterprise Zone or River Edge
15 Redevelopment Zone by the taxpayer, the amount of such
16 increase shall be deemed property placed in service on the
17 date of such increase in basis.

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

20 (6) If during any taxable year, any property ceases to
21 be qualified property in the hands of the taxpayer within
22 48 months after being placed in service, or the situs of
23 any qualified property is moved outside the Enterprise Zone
24 or River Edge Redevelopment Zone within 48 months after
25 being placed in service, the tax imposed under subsections
26 (a) and (b) of this Section for such taxable year shall be

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

11 (7) There shall be allowed an additional credit equal
12 to 0.5% of the basis of qualified property placed in
13 service during the taxable year in a River Edge
14 Redevelopment Zone, provided such property is placed in
15 service on or after July 1, 2006, and the taxpayer's base
16 employment within Illinois has increased by 1% or more over
17 the preceding year as determined by the taxpayer's
18 employment records filed with the Illinois Department of
19 Employment Security. Taxpayers who are new to Illinois
20 shall be deemed to have met the 1% growth in base
21 employment for the first year in which they file employment
22 records with the Illinois Department of Employment
23 Security. If, in any year, the increase in base employment
24 within Illinois over the preceding year is less than 1%,
25 the additional credit shall be limited to that percentage
26 times a fraction, the numerator of which is 0.5% and the

1 denominator of which is 1%, but shall not exceed 0.5%.

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

4 (1) A taxpayer conducting a trade or business in an
5 enterprise zone or a High Impact Business designated by the
6 Department of Commerce and Economic Opportunity or for
7 taxable years ending on or after December 31, 2006, in a
8 River Edge Redevelopment Zone conducting a trade or
9 business in a federally designated Foreign Trade Zone or
10 Sub-Zone shall be allowed a credit against the tax imposed
11 by subsections (a) and (b) of this Section in the amount of
12 \$500 per eligible employee hired to work in the zone during
13 the taxable year.

14 (2) To qualify for the credit:

15 (A) the taxpayer must hire 5 or more eligible
16 employees to work in an enterprise zone, River Edge
17 Redevelopment Zone, or federally designated Foreign
18 Trade Zone or Sub-Zone during the taxable year;

19 (B) the taxpayer's total employment within the
20 enterprise zone, River Edge Redevelopment Zone, or
21 federally designated Foreign Trade Zone or Sub-Zone
22 must increase by 5 or more full-time employees beyond
23 the total employed in that zone at the end of the
24 previous tax year for which a jobs tax credit under
25 this Section was taken, or beyond the total employed by
26 the taxpayer as of December 31, 1985, whichever is

1 later; and

2 (C) the eligible employees must be employed 180
3 consecutive days in order to be deemed hired for
4 purposes of this subsection.

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

6 (A) Certified by the Department of Commerce and
7 Economic Opportunity as "eligible for services"
8 pursuant to regulations promulgated in accordance with
9 Title II of the Job Training Partnership Act, Training
10 Services for the Disadvantaged or Title III of the Job
11 Training Partnership Act, Employment and Training
12 Assistance for Dislocated Workers Program.

13 (B) Hired after the enterprise zone, River Edge
14 Redevelopment Zone, or federally designated Foreign
15 Trade Zone or Sub-Zone was designated or the trade or
16 business was located in that zone, whichever is later.

17 (C) Employed in the enterprise zone, River Edge
18 Redevelopment Zone, or Foreign Trade Zone or Sub-Zone.
19 An employee is employed in an enterprise zone or
20 federally designated Foreign Trade Zone or Sub-Zone if
21 his services are rendered there or it is the base of
22 operations for the services performed.

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

25 (4) For tax years ending on or after December 31, 1985
26 and prior to December 31, 1988, the credit shall be allowed

1 for the tax year in which the eligible employees are hired.
2 For tax years ending on or after December 31, 1988, the
3 credit shall be allowed for the tax year immediately
4 following the tax year in which the eligible employees are
5 hired. If the amount of the credit exceeds the tax
6 liability for that year, whether it exceeds the original
7 liability or the liability as later amended, such excess
8 may be carried forward and applied to the tax liability of
9 the 5 taxable years following the excess credit year. The
10 credit shall be applied to the earliest year for which
11 there is a liability. If there is credit from more than one
12 tax year that is available to offset a liability, earlier
13 credit shall be applied first.

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

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

19 (h) Investment credit; High Impact Business.

20 (1) Subject to subsections (b) and (b-5) of Section 5.5
21 of the Illinois Enterprise Zone Act, a taxpayer shall be
22 allowed a credit against the tax imposed by subsections (a)
23 and (b) of this Section for investment in qualified
24 property which is placed in service by a Department of
25 Commerce and Economic Opportunity designated High Impact
26 Business. The credit shall be .5% of the basis for such

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

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

7 Changes made in this subdivision (h) (1) by Public Act
8 88-670 restore changes made by Public Act 85-1182 and
9 reflect existing law.

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

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

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

18 (C) is acquired by purchase as defined in Section
19 179(d) of the Internal Revenue Code; and

20 (D) is not eligible for the Enterprise Zone
21 Investment Credit provided by subsection (f) of this
22 Section.

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

26 (4) If the basis of the property for federal income tax

1 depreciation purposes is increased after it has been placed
2 in service in a federally designated Foreign Trade Zone or
3 Sub-Zone located in Illinois by the taxpayer, the amount of
4 such increase shall be deemed property placed in service on
5 the date of such increase in basis.

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

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

26 (7) Beginning with tax years ending after December 31,

1 1996, if a taxpayer qualifies for the credit under this
2 subsection (h) and thereby is granted a tax abatement and
3 the taxpayer relocates its entire facility in violation of
4 the explicit terms and length of the contract under Section
5 18-183 of the Property Tax Code, the tax imposed under
6 subsections (a) and (b) of this Section shall be increased
7 for the taxable year in which the taxpayer relocated its
8 facility by an amount equal to the amount of credit
9 received by the taxpayer under this subsection (h).

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

20 Any credit earned on or after December 31, 1986 under this
21 subsection which is unused in the year the credit is computed
22 because it exceeds the tax liability imposed by subsections (a)
23 and (b) for that year (whether it exceeds the original
24 liability or the liability as later amended) may be carried
25 forward and applied to the tax liability imposed by subsections
26 (a) and (b) of the 5 taxable years following the excess credit

1 year, provided that no credit may be carried forward to any
2 year ending on or after December 31, 2003. This credit shall be
3 applied first to the earliest year for which there is a
4 liability. If there is a credit under this subsection from more
5 than one tax year that is available to offset a liability the
6 earliest credit arising under this subsection shall be applied
7 first.

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

18 (j) Training expense credit. Beginning with tax years
19 ending on or after December 31, 1986 and prior to December 31,
20 2003, a taxpayer shall be allowed a credit against the tax
21 imposed by subsections (a) and (b) under this Section for all
22 amounts paid or accrued, on behalf of all persons employed by
23 the taxpayer in Illinois or Illinois residents employed outside
24 of Illinois by a taxpayer, for educational or vocational
25 training in semi-technical or technical fields or semi-skilled
26 or skilled fields, which were deducted from gross income in the

1 computation of taxable income. The credit against the tax
2 imposed by subsections (a) and (b) shall be 1.6% of such
3 training expenses. For partners, shareholders of subchapter S
4 corporations, and owners of limited liability companies, if the
5 liability company is treated as a partnership for purposes of
6 federal and State income taxation, there shall be allowed a
7 credit under this subsection (j) to be determined in accordance
8 with the determination of income and distributive share of
9 income under Sections 702 and 704 and subchapter S of the
10 Internal Revenue Code.

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

21 (k) Research and development credit.

22 For tax years ending after July 1, 1990 and prior to
23 December 31, 2003, and beginning again for tax years ending on
24 or after December 31, 2004, and ending prior to January 1, 2016
25 ~~January 1, 2011~~, a taxpayer shall be allowed a credit against
26 the tax imposed by subsections (a) and (b) of this Section for

1 increasing research activities in this State. The credit
2 allowed against the tax imposed by subsections (a) and (b)
3 shall be equal to 6 1/2% of the qualifying expenditures for
4 increasing research activities in this State. For partners,
5 shareholders of subchapter S corporations, and owners of
6 limited liability companies, if the liability company is
7 treated as a partnership for purposes of federal and State
8 income taxation, there shall be allowed a credit under this
9 subsection to be determined in accordance with the
10 determination of income and distributive share of income under
11 Sections 702 and 704 and subchapter S of the Internal Revenue
12 Code.

13 For purposes of this subsection, "qualifying expenditures"
14 means the qualifying expenditures as defined for the federal
15 credit for increasing research activities which would be
16 allowable under Section 41 of the Internal Revenue Code and
17 which are conducted in this State, "qualifying expenditures for
18 increasing research activities in this State" means the excess
19 of qualifying expenditures for the taxable year in which
20 incurred over qualifying expenditures for the base period,
21 "qualifying expenditures for the base period" means the average
22 of the qualifying expenditures for each year in the base
23 period, and "base period" means the 3 taxable years immediately
24 preceding the taxable year for which the determination is being
25 made.

26 Any credit in excess of the tax liability for the taxable

1 year may be carried forward. A taxpayer may elect to have the
2 unused credit shown on its final completed return carried over
3 as a credit against the tax liability for the following 5
4 taxable years or until it has been fully used, whichever occurs
5 first; provided that no credit earned in a tax year ending
6 prior to December 31, 2003 may be carried forward to any year
7 ending on or after December 31, 2003, ~~and no credit may be~~
8 ~~carried forward to any taxable year ending on or after January~~
9 ~~1, 2011.~~

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

22 No inference shall be drawn from this amendatory Act of the
23 91st General Assembly in construing this Section for taxable
24 years beginning before January 1, 1999.

25 (1) Environmental Remediation Tax Credit.

26 (i) For tax years ending after December 31, 1997 and on

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

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

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

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

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

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

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

9 For purposes of this subsection:

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

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

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

1 the credit under this Section.

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

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

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

1 Environmental Protection Act. Determinations as to credit
2 availability for purposes of this Section shall be made
3 consistent with rules adopted by the Pollution Control
4 Board pursuant to the Illinois Administrative Procedure
5 Act for the administration and enforcement of Section 58.9
6 of the Environmental Protection Act. For purposes of this
7 Section, "taxpayer" includes a person whose tax attributes
8 the taxpayer has succeeded to under Section 381 of the
9 Internal Revenue Code and "related party" includes the
10 persons disallowed a deduction for losses by paragraphs
11 (b), (c), and (f) (1) of Section 267 of the Internal Revenue
12 Code by virtue of being a related taxpayer, as well as any
13 of its partners. The credit allowed against the tax imposed
14 by subsections (a) and (b) shall be equal to 25% of the
15 unreimbursed eligible remediation costs in excess of
16 \$100,000 per site.

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

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

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

16 (Source: P.A. 96-115, eff. 7-31-09; 96-116, eff. 7-31-09;
17 96-937, eff. 6-23-10; 96-1000, eff. 7-2-10; 96-1496, eff.
18 1-13-11; 97-2, eff. 5-6-11.)

19 (35 ILCS 5/204) (from Ch. 120, par. 2-204)

20 Sec. 204. Standard Exemption.

21 (a) Allowance of exemption. In computing net income under
22 this Act, there shall be allowed as an exemption the sum of the
23 amounts determined under subsections (b), (c) and (d),
24 multiplied by a fraction the numerator of which is the amount
25 of the taxpayer's base income allocable to this State for the

1 taxable year and the denominator of which is the taxpayer's
2 total base income for the taxable year.

3 (b) Basic amount. For the purpose of subsection (a) of this
4 Section, except as provided by subsection (a) of Section 205
5 and in this subsection, each taxpayer shall be allowed a basic
6 amount of \$1000, except that for corporations the basic amount
7 shall be zero for tax years ending on or after December 31,
8 2003, and for individuals the basic amount shall be:

9 (1) for taxable years ending on or after December 31,
10 1998 and prior to December 31, 1999, \$1,300;

11 (2) for taxable years ending on or after December 31,
12 1999 and prior to December 31, 2000, \$1,650;

13 (3) for taxable years ending on or after December 31,
14 2000 and prior to December 31, 2012, \$2,000; ~~and~~

15 (4) for taxable years ending on or after December 31,
16 2012, \$2,050.

17 For taxable years ending on or after December 31, 1992, a
18 taxpayer whose Illinois base income exceeds the basic amount
19 and who is claimed as a dependent on another person's tax
20 return under the Internal Revenue Code shall not be allowed any
21 basic amount under this subsection.

22 (c) Additional amount for individuals. In the case of an
23 individual taxpayer, there shall be allowed for the purpose of
24 subsection (a), in addition to the basic amount provided by
25 subsection (b), an additional exemption equal to the basic
26 amount for each exemption in excess of one allowable to such

1 individual taxpayer for the taxable year under Section 151 of
2 the Internal Revenue Code.

3 (d) Additional exemptions for an individual taxpayer and
4 his or her spouse. In the case of an individual taxpayer and
5 his or her spouse, he or she shall each be allowed additional
6 exemptions as follows:

7 (1) Additional exemption for taxpayer or spouse 65
8 years of age or older.

9 (A) For taxpayer. An additional exemption of
10 \$1,000 for the taxpayer if he or she has attained the
11 age of 65 before the end of the taxable year.

12 (B) For spouse when a joint return is not filed. An
13 additional exemption of \$1,000 for the spouse of the
14 taxpayer if a joint return is not made by the taxpayer
15 and his spouse, and if the spouse has attained the age
16 of 65 before the end of such taxable year, and, for the
17 calendar year in which the taxable year of the taxpayer
18 begins, has no gross income and is not the dependent of
19 another taxpayer.

20 (2) Additional exemption for blindness of taxpayer or
21 spouse.

22 (A) For taxpayer. An additional exemption of
23 \$1,000 for the taxpayer if he or she is blind at the
24 end of the taxable year.

25 (B) For spouse when a joint return is not filed. An
26 additional exemption of \$1,000 for the spouse of the

1 taxpayer if a separate return is made by the taxpayer,
2 and if the spouse is blind and, for the calendar year
3 in which the taxable year of the taxpayer begins, has
4 no gross income and is not the dependent of another
5 taxpayer. For purposes of this paragraph, the
6 determination of whether the spouse is blind shall be
7 made as of the end of the taxable year of the taxpayer;
8 except that if the spouse dies during such taxable year
9 such determination shall be made as of the time of such
10 death.

11 (C) Blindness defined. For purposes of this
12 subsection, an individual is blind only if his or her
13 central visual acuity does not exceed 20/200 in the
14 better eye with correcting lenses, or if his or her
15 visual acuity is greater than 20/200 but is accompanied
16 by a limitation in the fields of vision such that the
17 widest diameter of the visual fields subtends an angle
18 no greater than 20 degrees.

19 (e) Cross reference. See Article 3 for the manner of
20 determining base income allocable to this State.

21 (f) Application of Section 250. Section 250 does not apply
22 to the amendments to this Section made by Public Act 90-613.

23 (Source: P.A. 97-507, eff. 8-23-11.)

24 (35 ILCS 5/207) (from Ch. 120, par. 2-207)

25 Sec. 207. Net Losses.

1 (a) If after applying all of the (i) modifications provided
2 for in paragraph (2) of Section 203(b), paragraph (2) of
3 Section 203(c) and paragraph (2) of Section 203(d) and (ii) the
4 allocation and apportionment provisions of Article 3 of this
5 Act and subsection (c) of this Section, the taxpayer's net
6 income results in a loss;

7 (1) for any taxable year ending prior to December 31,
8 1999, such loss shall be allowed as a carryover or
9 carryback deduction in the manner allowed under Section 172
10 of the Internal Revenue Code;

11 (2) for any taxable year ending on or after December
12 31, 1999 and prior to December 31, 2003, such loss shall be
13 allowed as a carryback to each of the 2 taxable years
14 preceding the taxable year of such loss and shall be a net
15 operating loss carryover to each of the 20 taxable years
16 following the taxable year of such loss; and

17 (3) for any taxable year ending on or after December
18 31, 2003, such loss shall be allowed as a net operating
19 loss carryover to each of the 12 taxable years following
20 the taxable year of such loss, except as provided in
21 subsection (d).

22 (a-5) Election to relinquish carryback and order of
23 application of losses.

24 (A) For losses incurred in tax years ending prior
25 to December 31, 2003, the taxpayer may elect to
26 relinquish the entire carryback period with respect to

1 such loss. Such election shall be made in the form and
2 manner prescribed by the Department and shall be made
3 by the due date (including extensions of time) for
4 filing the taxpayer's return for the taxable year in
5 which such loss is incurred, and such election, once
6 made, shall be irrevocable.

7 (B) The entire amount of such loss shall be carried
8 to the earliest taxable year to which such loss may be
9 carried. The amount of such loss which shall be carried
10 to each of the other taxable years shall be the excess,
11 if any, of the amount of such loss over the sum of the
12 deductions for carryback or carryover of such loss
13 allowable for each of the prior taxable years to which
14 such loss may be carried.

15 (b) Any loss determined under subsection (a) of this
16 Section must be carried back or carried forward in the same
17 manner for purposes of subsections (a) and (b) of Section 201
18 of this Act as for purposes of subsections (c) and (d) of
19 Section 201 of this Act.

20 (c) Notwithstanding any other provision of this Act, for
21 each taxable year ending on or after December 31, 2008, for
22 purposes of computing the loss for the taxable year under
23 subsection (a) of this Section and the deduction taken into
24 account for the taxable year for a net operating loss carryover
25 under paragraphs (1), (2), and (3) of subsection (a) of this
26 Section, the loss and net operating loss carryover shall be

1 reduced in an amount equal to the reduction to the net
2 operating loss and net operating loss carryover to the taxable
3 year, respectively, required under Section 108(b)(2)(A) of the
4 Internal Revenue Code, multiplied by a fraction, the numerator
5 of which is the amount of discharge of indebtedness income that
6 is excluded from gross income for the taxable year (but only if
7 the taxable year ends on or after December 31, 2008) under
8 Section 108(a) of the Internal Revenue Code and that would have
9 been allocated and apportioned to this State under Article 3 of
10 this Act but for that exclusion, and the denominator of which
11 is the total amount of discharge of indebtedness income
12 excluded from gross income under Section 108(a) of the Internal
13 Revenue Code for the taxable year. The reduction required under
14 this subsection (c) shall be made after the determination of
15 Illinois net income for the taxable year in which the
16 indebtedness is discharged.

17 (d) In the case of a corporation (other than a Subchapter S
18 corporation), no carryover deduction shall be allowed under
19 this Section for any taxable year ending after December 31,
20 2010 and prior to December 31, 2012, and no carryover deduction
21 shall exceed \$100,000 for any taxable year ending on or after
22 December 31, 2012 and prior to December 31, 2014; provided
23 that, for purposes of determining the taxable years to which a
24 net loss may be carried under subsection (a) of this Section,
25 no taxable year for which a deduction is disallowed under this
26 subsection, or for which the deduction would exceed \$100,000 if

1 not for this subsection, shall be counted.

2 (e) In the case of a residual interest holder in a real
3 estate mortgage investment conduit subject to Section 860E of
4 the Internal Revenue Code, the net loss in subsection (a) shall
5 be equal to:

6 (1) the amount computed under subsection (a), without
7 regard to this subsection (e), or if that amount is
8 positive, zero;

9 (2) minus an amount equal to the amount computed under
10 subsection (a), without regard to this subsection (e),
11 minus the amount that would be computed under subsection
12 (a) if the taxpayer's federal taxable income were computed
13 without regard to Section 860E of the Internal Revenue Code
14 and without regard to this subsection (e).

15 The modification in this subsection (e) is exempt from the
16 provisions of Section 250.

17 (Source: P.A. 96-1496, eff. 1-13-11; 97-507, eff. 8-23-11.)

18 (35 ILCS 5/212)

19 Sec. 212. Earned income tax credit.

20 (a) With respect to the federal earned income tax credit
21 allowed for the taxable year under Section 32 of the federal
22 Internal Revenue Code, 26 U.S.C. 32, each individual taxpayer
23 is entitled to a credit against the tax imposed by subsections
24 (a) and (b) of Section 201 in an amount equal to (i) 5% of the
25 federal tax credit for each taxable year beginning on or after

1 January 1, 2000 and ending prior to December 31, 2012, (ii)
2 7.5% of the federal tax credit for each taxable year beginning
3 on or after January 1, 2012 and ending prior to December 31,
4 2013, and (iii) 10% of the federal tax credit for each taxable
5 year beginning on or after January 1, 2013.

6 For a non-resident or part-year resident, the amount of the
7 credit under this Section shall be in proportion to the amount
8 of income attributable to this State.

9 (b) For taxable years beginning before January 1, 2003, in
10 no event shall a credit under this Section reduce the
11 taxpayer's liability to less than zero. For each taxable year
12 beginning on or after January 1, 2003, if the amount of the
13 credit exceeds the income tax liability for the applicable tax
14 year, then the excess credit shall be refunded to the taxpayer.
15 The amount of a refund shall not be included in the taxpayer's
16 income or resources for the purposes of determining eligibility
17 or benefit level in any means-tested benefit program
18 administered by a governmental entity unless required by
19 federal law.

20 (c) This Section is exempt from the provisions of Section
21 250.

22 (Source: P.A. 95-333, eff. 8-21-07.)

23 (35 ILCS 5/250)

24 Sec. 250. Sunset of exemptions, credits, and deductions.

25 (a) The application of every exemption, credit, and

1 deduction against tax imposed by this Act that becomes law
2 after the effective date of this amendatory Act of 1994 shall
3 be limited by a reasonable and appropriate sunset date. A
4 taxpayer is not entitled to take the exemption, credit, or
5 deduction for tax years beginning on or after the sunset date.
6 Except as provided in subsection (b) of this Section, if ~~if~~ a
7 reasonable and appropriate sunset date is not specified in the
8 Public Act that creates the exemption, credit, or deduction, a
9 taxpayer shall not be entitled to take the exemption, credit,
10 or deduction for tax years beginning on or after 5 years after
11 the effective date of the Public Act creating the exemption,
12 credit, or deduction and thereafter; provided, however, that in
13 the case of any Public Act authorizing the issuance of
14 tax-exempt obligations that does not specify a sunset date for
15 the exemption or deduction of income derived from the
16 obligations, the exemption or deduction shall not terminate
17 until after the obligations have been paid by the issuer.

18 (b) Notwithstanding the provisions of subsection (a) of
19 this Section, the sunset date of any exemption, credit, or
20 deduction that is scheduled to expire in 2011, 2012, or 2013 by
21 operation of this Section shall be extended by 5 years.

22 (Source: P.A. 88-660, eff. 9-16-94; 89-460, eff. 5-24-96.)

23 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

24 Sec. 304. Business income of persons other than residents.

25 (a) In general. The business income of a person other than

1 a resident shall be allocated to this State if such person's
2 business income is derived solely from this State. If a person
3 other than a resident derives business income from this State
4 and one or more other states, then, for tax years ending on or
5 before December 30, 1998, and except as otherwise provided by
6 this Section, such person's business income shall be
7 apportioned to this State by multiplying the income by a
8 fraction, the numerator of which is the sum of the property
9 factor (if any), the payroll factor (if any) and 200% of the
10 sales factor (if any), and the denominator of which is 4
11 reduced by the number of factors other than the sales factor
12 which have a denominator of zero and by an additional 2 if the
13 sales factor has a denominator of zero. For tax years ending on
14 or after December 31, 1998, and except as otherwise provided by
15 this Section, persons other than residents who derive business
16 income from this State and one or more other states shall
17 compute their apportionment factor by weighting their
18 property, payroll, and sales factors as provided in subsection
19 (h) of this Section.

20 (1) Property factor.

21 (A) The property factor is a fraction, the numerator of
22 which is the average value of the person's real and
23 tangible personal property owned or rented and used in the
24 trade or business in this State during the taxable year and
25 the denominator of which is the average value of all the
26 person's real and tangible personal property owned or

1 rented and used in the trade or business during the taxable
2 year.

3 (B) Property owned by the person is valued at its
4 original cost. Property rented by the person is valued at 8
5 times the net annual rental rate. Net annual rental rate is
6 the annual rental rate paid by the person less any annual
7 rental rate received by the person from sub-rentals.

8 (C) The average value of property shall be determined
9 by averaging the values at the beginning and ending of the
10 taxable year but the Director may require the averaging of
11 monthly values during the taxable year if reasonably
12 required to reflect properly the average value of the
13 person's property.

14 (2) Payroll factor.

15 (A) The payroll factor is a fraction, the numerator of
16 which is the total amount paid in this State during the
17 taxable year by the person for compensation, and the
18 denominator of which is the total compensation paid
19 everywhere during the taxable year.

20 (B) Compensation is paid in this State if:

21 (i) The individual's service is performed entirely
22 within this State;

23 (ii) The individual's service is performed both
24 within and without this State, but the service
25 performed without this State is incidental to the
26 individual's service performed within this State; or

1 (iii) Some of the service is performed within this
2 State and either the base of operations, or if there is
3 no base of operations, the place from which the service
4 is directed or controlled is within this State, or the
5 base of operations or the place from which the service
6 is directed or controlled is not in any state in which
7 some part of the service is performed, but the
8 individual's residence is in this State.

9 (iv) Compensation paid to nonresident professional
10 athletes.

11 (a) General. The Illinois source income of a
12 nonresident individual who is a member of a
13 professional athletic team includes the portion of the
14 individual's total compensation for services performed
15 as a member of a professional athletic team during the
16 taxable year which the number of duty days spent within
17 this State performing services for the team in any
18 manner during the taxable year bears to the total
19 number of duty days spent both within and without this
20 State during the taxable year.

21 (b) Travel days. Travel days that do not involve
22 either a game, practice, team meeting, or other similar
23 team event are not considered duty days spent in this
24 State. However, such travel days are considered in the
25 total duty days spent both within and without this
26 State.

1 (c) Definitions. For purposes of this subpart
2 (iv):

3 (1) The term "professional athletic team"
4 includes, but is not limited to, any professional
5 baseball, basketball, football, soccer, or hockey
6 team.

7 (2) The term "member of a professional
8 athletic team" includes those employees who are
9 active players, players on the disabled list, and
10 any other persons required to travel and who travel
11 with and perform services on behalf of a
12 professional athletic team on a regular basis.
13 This includes, but is not limited to, coaches,
14 managers, and trainers.

15 (3) Except as provided in items (C) and (D) of
16 this subpart (3), the term "duty days" means all
17 days during the taxable year from the beginning of
18 the professional athletic team's official
19 pre-season training period through the last game
20 in which the team competes or is scheduled to
21 compete. Duty days shall be counted for the year in
22 which they occur, including where a team's
23 official pre-season training period through the
24 last game in which the team competes or is
25 scheduled to compete, occurs during more than one
26 tax year.

1 (A) Duty days shall also include days on
2 which a member of a professional athletic team
3 performs service for a team on a date that does
4 not fall within the foregoing period (e.g.,
5 participation in instructional leagues, the
6 "All Star Game", or promotional "caravans").
7 Performing a service for a professional
8 athletic team includes conducting training and
9 rehabilitation activities, when such
10 activities are conducted at team facilities.

11 (B) Also included in duty days are game
12 days, practice days, days spent at team
13 meetings, promotional caravans, preseason
14 training camps, and days served with the team
15 through all post-season games in which the team
16 competes or is scheduled to compete.

17 (C) Duty days for any person who joins a
18 team during the period from the beginning of
19 the professional athletic team's official
20 pre-season training period through the last
21 game in which the team competes, or is
22 scheduled to compete, shall begin on the day
23 that person joins the team. Conversely, duty
24 days for any person who leaves a team during
25 this period shall end on the day that person
26 leaves the team. Where a person switches teams

1 during a taxable year, a separate duty-day
2 calculation shall be made for the period the
3 person was with each team.

4 (D) Days for which a member of a
5 professional athletic team is not compensated
6 and is not performing services for the team in
7 any manner, including days when such member of
8 a professional athletic team has been
9 suspended without pay and prohibited from
10 performing any services for the team, shall not
11 be treated as duty days.

12 (E) Days for which a member of a
13 professional athletic team is on the disabled
14 list and does not conduct rehabilitation
15 activities at facilities of the team, and is
16 not otherwise performing services for the team
17 in Illinois, shall not be considered duty days
18 spent in this State. All days on the disabled
19 list, however, are considered to be included in
20 total duty days spent both within and without
21 this State.

22 (4) The term "total compensation for services
23 performed as a member of a professional athletic
24 team" means the total compensation received during
25 the taxable year for services performed:

26 (A) from the beginning of the official

1 pre-season training period through the last
2 game in which the team competes or is scheduled
3 to compete during that taxable year; and

4 (B) during the taxable year on a date which
5 does not fall within the foregoing period
6 (e.g., participation in instructional leagues,
7 the "All Star Game", or promotional caravans).

8 This compensation shall include, but is not
9 limited to, salaries, wages, bonuses as described
10 in this subpart, and any other type of compensation
11 paid during the taxable year to a member of a
12 professional athletic team for services performed
13 in that year. This compensation does not include
14 strike benefits, severance pay, termination pay,
15 contract or option year buy-out payments,
16 expansion or relocation payments, or any other
17 payments not related to services performed for the
18 team.

19 For purposes of this subparagraph, "bonuses"
20 included in "total compensation for services
21 performed as a member of a professional athletic
22 team" subject to the allocation described in
23 Section 302(c)(1) are: bonuses earned as a result
24 of play (i.e., performance bonuses) during the
25 season, including bonuses paid for championship,
26 playoff or "bowl" games played by a team, or for

1 selection to all-star league or other honorary
2 positions; and bonuses paid for signing a
3 contract, unless the payment of the signing bonus
4 is not conditional upon the signee playing any
5 games for the team or performing any subsequent
6 services for the team or even making the team, the
7 signing bonus is payable separately from the
8 salary and any other compensation, and the signing
9 bonus is nonrefundable.

10 (3) Sales factor.

11 (A) The sales factor is a fraction, the numerator of
12 which is the total sales of the person in this State during
13 the taxable year, and the denominator of which is the total
14 sales of the person everywhere during the taxable year.

15 (B) Sales of tangible personal property are in this
16 State if:

17 (i) The property is delivered or shipped to a
18 purchaser, other than the United States government,
19 within this State regardless of the f. o. b. point or
20 other conditions of the sale; or

21 (ii) The property is shipped from an office, store,
22 warehouse, factory or other place of storage in this
23 State and either the purchaser is the United States
24 government or the person is not taxable in the state of
25 the purchaser; provided, however, that premises owned
26 or leased by a person who has independently contracted

1 with the seller for the printing of newspapers,
2 periodicals or books shall not be deemed to be an
3 office, store, warehouse, factory or other place of
4 storage for purposes of this Section. Sales of tangible
5 personal property are not in this State if the seller
6 and purchaser would be members of the same unitary
7 business group but for the fact that either the seller
8 or purchaser is a person with 80% or more of total
9 business activity outside of the United States and the
10 property is purchased for resale.

11 (B-1) Patents, copyrights, trademarks, and similar
12 items of intangible personal property.

13 (i) Gross receipts from the licensing, sale, or
14 other disposition of a patent, copyright, trademark,
15 or similar item of intangible personal property, other
16 than gross receipts governed by paragraph (B-7) of this
17 item (3), are in this State to the extent the item is
18 utilized in this State during the year the gross
19 receipts are included in gross income.

20 (ii) Place of utilization.

21 (I) A patent is utilized in a state to the
22 extent that it is employed in production,
23 fabrication, manufacturing, or other processing in
24 the state or to the extent that a patented product
25 is produced in the state. If a patent is utilized
26 in more than one state, the extent to which it is

1 utilized in any one state shall be a fraction equal
2 to the gross receipts of the licensee or purchaser
3 from sales or leases of items produced,
4 fabricated, manufactured, or processed within that
5 state using the patent and of patented items
6 produced within that state, divided by the total of
7 such gross receipts for all states in which the
8 patent is utilized.

9 (II) A copyright is utilized in a state to the
10 extent that printing or other publication
11 originates in the state. If a copyright is utilized
12 in more than one state, the extent to which it is
13 utilized in any one state shall be a fraction equal
14 to the gross receipts from sales or licenses of
15 materials printed or published in that state
16 divided by the total of such gross receipts for all
17 states in which the copyright is utilized.

18 (III) Trademarks and other items of intangible
19 personal property governed by this paragraph (B-1)
20 are utilized in the state in which the commercial
21 domicile of the licensee or purchaser is located.

22 (iii) If the state of utilization of an item of
23 property governed by this paragraph (B-1) cannot be
24 determined from the taxpayer's books and records or
25 from the books and records of any person related to the
26 taxpayer within the meaning of Section 267(b) of the

1 Internal Revenue Code, 26 U.S.C. 267, the gross
2 receipts attributable to that item shall be excluded
3 from both the numerator and the denominator of the
4 sales factor.

5 (B-2) Gross receipts from the license, sale, or other
6 disposition of patents, copyrights, trademarks, and
7 similar items of intangible personal property, other than
8 gross receipts governed by paragraph (B-7) of this item
9 (3), may be included in the numerator or denominator of the
10 sales factor only if gross receipts from licenses, sales,
11 or other disposition of such items comprise more than 50%
12 of the taxpayer's total gross receipts included in gross
13 income during the tax year and during each of the 2
14 immediately preceding tax years; provided that, when a
15 taxpayer is a member of a unitary business group, such
16 determination shall be made on the basis of the gross
17 receipts of the entire unitary business group.

18 (B-5) For taxable years ending on or after December 31,
19 2008, except as provided in subsections (ii) through (vii),
20 receipts from the sale of telecommunications service or
21 mobile telecommunications service are in this State if the
22 customer's service address is in this State.

23 (i) For purposes of this subparagraph (B-5), the
24 following terms have the following meanings:

25 "Ancillary services" means services that are
26 associated with or incidental to the provision of

1 "telecommunications services", including but not
2 limited to "detailed telecommunications billing",
3 "directory assistance", "vertical service", and "voice
4 mail services".

5 "Air-to-Ground Radiotelephone service" means a
6 radio service, as that term is defined in 47 CFR 22.99,
7 in which common carriers are authorized to offer and
8 provide radio telecommunications service for hire to
9 subscribers in aircraft.

10 "Call-by-call Basis" means any method of charging
11 for telecommunications services where the price is
12 measured by individual calls.

13 "Communications Channel" means a physical or
14 virtual path of communications over which signals are
15 transmitted between or among customer channel
16 termination points.

17 "Conference bridging service" means an "ancillary
18 service" that links two or more participants of an
19 audio or video conference call and may include the
20 provision of a telephone number. "Conference bridging
21 service" does not include the "telecommunications
22 services" used to reach the conference bridge.

23 "Customer Channel Termination Point" means the
24 location where the customer either inputs or receives
25 the communications.

26 "Detailed telecommunications billing service"

1 means an "ancillary service" of separately stating
2 information pertaining to individual calls on a
3 customer's billing statement.

4 "Directory assistance" means an "ancillary
5 service" of providing telephone number information,
6 and/or address information.

7 "Home service provider" means the facilities based
8 carrier or reseller with which the customer contracts
9 for the provision of mobile telecommunications
10 services.

11 "Mobile telecommunications service" means
12 commercial mobile radio service, as defined in Section
13 20.3 of Title 47 of the Code of Federal Regulations as
14 in effect on June 1, 1999.

15 "Place of primary use" means the street address
16 representative of where the customer's use of the
17 telecommunications service primarily occurs, which
18 must be the residential street address or the primary
19 business street address of the customer. In the case of
20 mobile telecommunications services, "place of primary
21 use" must be within the licensed service area of the
22 home service provider.

23 "Post-paid telecommunication service" means the
24 telecommunications service obtained by making a
25 payment on a call-by-call basis either through the use
26 of a credit card or payment mechanism such as a bank

1 card, travel card, credit card, or debit card, or by
2 charge made to a telephone number which is not
3 associated with the origination or termination of the
4 telecommunications service. A post-paid calling
5 service includes telecommunications service, except a
6 prepaid wireless calling service, that would be a
7 prepaid calling service except it is not exclusively a
8 telecommunication service.

9 "Prepaid telecommunication service" means the
10 right to access exclusively telecommunications
11 services, which must be paid for in advance and which
12 enables the origination of calls using an access number
13 or authorization code, whether manually or
14 electronically dialed, and that is sold in
15 predetermined units or dollars of which the number
16 declines with use in a known amount.

17 "Prepaid Mobile telecommunication service" means a
18 telecommunications service that provides the right to
19 utilize mobile wireless service as well as other
20 non-telecommunication services, including but not
21 limited to ancillary services, which must be paid for
22 in advance that is sold in predetermined units or
23 dollars of which the number declines with use in a
24 known amount.

25 "Private communication service" means a
26 telecommunication service that entitles the customer

1 to exclusive or priority use of a communications
2 channel or group of channels between or among
3 termination points, regardless of the manner in which
4 such channel or channels are connected, and includes
5 switching capacity, extension lines, stations, and any
6 other associated services that are provided in
7 connection with the use of such channel or channels.

8 "Service address" means:

9 (a) The location of the telecommunications
10 equipment to which a customer's call is charged and
11 from which the call originates or terminates,
12 regardless of where the call is billed or paid;

13 (b) If the location in line (a) is not known,
14 service address means the origination point of the
15 signal of the telecommunications services first
16 identified by either the seller's
17 telecommunications system or in information
18 received by the seller from its service provider
19 where the system used to transport such signals is
20 not that of the seller; and

21 (c) If the locations in line (a) and line (b)
22 are not known, the service address means the
23 location of the customer's place of primary use.

24 "Telecommunications service" means the electronic
25 transmission, conveyance, or routing of voice, data,
26 audio, video, or any other information or signals to a

1 point, or between or among points. The term
2 "telecommunications service" includes such
3 transmission, conveyance, or routing in which computer
4 processing applications are used to act on the form,
5 code or protocol of the content for purposes of
6 transmission, conveyance or routing without regard to
7 whether such service is referred to as voice over
8 Internet protocol services or is classified by the
9 Federal Communications Commission as enhanced or value
10 added. "Telecommunications service" does not include:

11 (a) Data processing and information services
12 that allow data to be generated, acquired, stored,
13 processed, or retrieved and delivered by an
14 electronic transmission to a purchaser when such
15 purchaser's primary purpose for the underlying
16 transaction is the processed data or information;

17 (b) Installation or maintenance of wiring or
18 equipment on a customer's premises;

19 (c) Tangible personal property;

20 (d) Advertising, including but not limited to
21 directory advertising.

22 (e) Billing and collection services provided
23 to third parties;

24 (f) Internet access service;

25 (g) Radio and television audio and video
26 programming services, regardless of the medium,

1 including the furnishing of transmission,
2 conveyance and routing of such services by the
3 programming service provider. Radio and television
4 audio and video programming services shall include
5 but not be limited to cable service as defined in
6 47 USC 522(6) and audio and video programming
7 services delivered by commercial mobile radio
8 service providers, as defined in 47 CFR 20.3;

9 (h) "Ancillary services"; or

10 (i) Digital products "delivered
11 electronically", including but not limited to
12 software, music, video, reading materials or ring
13 tones.

14 "Vertical service" means an "ancillary service"
15 that is offered in connection with one or more
16 "telecommunications services", which offers advanced
17 calling features that allow customers to identify
18 callers and to manage multiple calls and call
19 connections, including "conference bridging services".

20 "Voice mail service" means an "ancillary service"
21 that enables the customer to store, send or receive
22 recorded messages. "Voice mail service" does not
23 include any "vertical services" that the customer may
24 be required to have in order to utilize the "voice mail
25 service".

26 (ii) Receipts from the sale of telecommunications

1 service sold on an individual call-by-call basis are in
2 this State if either of the following applies:

3 (a) The call both originates and terminates in
4 this State.

5 (b) The call either originates or terminates
6 in this State and the service address is located in
7 this State.

8 (iii) Receipts from the sale of postpaid
9 telecommunications service at retail are in this State
10 if the origination point of the telecommunication
11 signal, as first identified by the service provider's
12 telecommunication system or as identified by
13 information received by the seller from its service
14 provider if the system used to transport
15 telecommunication signals is not the seller's, is
16 located in this State.

17 (iv) Receipts from the sale of prepaid
18 telecommunications service or prepaid mobile
19 telecommunications service at retail are in this State
20 if the purchaser obtains the prepaid card or similar
21 means of conveyance at a location in this State.
22 Receipts from recharging a prepaid telecommunications
23 service or mobile telecommunications service is in
24 this State if the purchaser's billing information
25 indicates a location in this State.

26 (v) Receipts from the sale of private

1 communication services are in this State as follows:

2 (a) 100% of receipts from charges imposed at
3 each channel termination point in this State.

4 (b) 100% of receipts from charges for the total
5 channel mileage between each channel termination
6 point in this State.

7 (c) 50% of the total receipts from charges for
8 service segments when those segments are between 2
9 customer channel termination points, 1 of which is
10 located in this State and the other is located
11 outside of this State, which segments are
12 separately charged.

13 (d) The receipts from charges for service
14 segments with a channel termination point located
15 in this State and in two or more other states, and
16 which segments are not separately billed, are in
17 this State based on a percentage determined by
18 dividing the number of customer channel
19 termination points in this State by the total
20 number of customer channel termination points.

21 (vi) Receipts from charges for ancillary services
22 for telecommunications service sold to customers at
23 retail are in this State if the customer's primary
24 place of use of telecommunications services associated
25 with those ancillary services is in this State. If the
26 seller of those ancillary services cannot determine

1 where the associated telecommunications are located,
2 then the ancillary services shall be based on the
3 location of the purchaser.

4 (vii) Receipts to access a carrier's network or
5 from the sale of telecommunication services or
6 ancillary services for resale are in this State as
7 follows:

8 (a) 100% of the receipts from access fees
9 attributable to intrastate telecommunications
10 service that both originates and terminates in
11 this State.

12 (b) 50% of the receipts from access fees
13 attributable to interstate telecommunications
14 service if the interstate call either originates
15 or terminates in this State.

16 (c) 100% of the receipts from interstate end
17 user access line charges, if the customer's
18 service address is in this State. As used in this
19 subdivision, "interstate end user access line
20 charges" includes, but is not limited to, the
21 surcharge approved by the federal communications
22 commission and levied pursuant to 47 CFR 69.

23 (d) Gross receipts from sales of
24 telecommunication services or from ancillary
25 services for telecommunications services sold to
26 other telecommunication service providers for

1 resale shall be sourced to this State using the
2 apportionment concepts used for non-resale
3 receipts of telecommunications services if the
4 information is readily available to make that
5 determination. If the information is not readily
6 available, then the taxpayer may use any other
7 reasonable and consistent method.

8 (B-7) For taxable years ending on or after December 31,
9 2008, receipts from the sale of broadcasting services are
10 in this State if the broadcasting services are received in
11 this State. For purposes of this paragraph (B-7), the
12 following terms have the following meanings:

13 "Advertising revenue" means consideration received
14 by the taxpayer in exchange for broadcasting services
15 or allowing the broadcasting of commercials or
16 announcements in connection with the broadcasting of
17 film or radio programming, from sponsorships of the
18 programming, or from product placements in the
19 programming.

20 "Audience factor" means the ratio that the
21 audience or subscribers located in this State of a
22 station, a network, or a cable system bears to the
23 total audience or total subscribers for that station,
24 network, or cable system. The audience factor for film
25 or radio programming shall be determined by reference
26 to the books and records of the taxpayer or by

1 reference to published rating statistics provided the
2 method used by the taxpayer is consistently used from
3 year to year for this purpose and fairly represents the
4 taxpayer's activity in this State.

5 "Broadcast" or "broadcasting" or "broadcasting
6 services" means the transmission or provision of film
7 or radio programming, whether through the public
8 airwaves, by cable, by direct or indirect satellite
9 transmission, or by any other means of communication,
10 either through a station, a network, or a cable system.

11 "Film" or "film programming" means the broadcast
12 on television of any and all performances, events, or
13 productions, including but not limited to news,
14 sporting events, plays, stories, or other literary,
15 commercial, educational, or artistic works, either
16 live or through the use of video tape, disc, or any
17 other type of format or medium. Each episode of a
18 series of films produced for television shall
19 constitute separate "film" notwithstanding that the
20 series relates to the same principal subject and is
21 produced during one or more tax periods.

22 "Radio" or "radio programming" means the broadcast
23 on radio of any and all performances, events, or
24 productions, including but not limited to news,
25 sporting events, plays, stories, or other literary,
26 commercial, educational, or artistic works, either

1 live or through the use of an audio tape, disc, or any
2 other format or medium. Each episode in a series of
3 radio programming produced for radio broadcast shall
4 constitute a separate "radio programming"
5 notwithstanding that the series relates to the same
6 principal subject and is produced during one or more
7 tax periods.

8 (i) In the case of advertising revenue from
9 broadcasting, the customer is the advertiser and
10 the service is received in this State if the
11 commercial domicile of the advertiser is in this
12 State.

13 (ii) In the case where film or radio
14 programming is broadcast by a station, a network,
15 or a cable system for a fee or other remuneration
16 received from the recipient of the broadcast, the
17 portion of the service that is received in this
18 State is measured by the portion of the recipients
19 of the broadcast located in this State.
20 Accordingly, the fee or other remuneration for
21 such service that is included in the Illinois
22 numerator of the sales factor is the total of those
23 fees or other remuneration received from
24 recipients in Illinois. For purposes of this
25 paragraph, a taxpayer may determine the location
26 of the recipients of its broadcast using the

1 address of the recipient shown in its contracts
2 with the recipient or using the billing address of
3 the recipient in the taxpayer's records.

4 (iii) In the case where film or radio
5 programming is broadcast by a station, a network,
6 or a cable system for a fee or other remuneration
7 from the person providing the programming, the
8 portion of the broadcast service that is received
9 by such station, network, or cable system in this
10 State is measured by the portion of recipients of
11 the broadcast located in this State. Accordingly,
12 the amount of revenue related to such an
13 arrangement that is included in the Illinois
14 numerator of the sales factor is the total fee or
15 other total remuneration from the person providing
16 the programming related to that broadcast
17 multiplied by the Illinois audience factor for
18 that broadcast.

19 (iv) In the case where film or radio
20 programming is provided by a taxpayer that is a
21 network or station to a customer for broadcast in
22 exchange for a fee or other remuneration from that
23 customer the broadcasting service is received at
24 the location of the office of the customer from
25 which the services were ordered in the regular
26 course of the customer's trade or business.

1 Accordingly, in such a case the revenue derived by
2 the taxpayer that is included in the taxpayer's
3 Illinois numerator of the sales factor is the
4 revenue from such customers who receive the
5 broadcasting service in Illinois.

6 (v) In the case where film or radio programming
7 is provided by a taxpayer that is not a network or
8 station to another person for broadcasting in
9 exchange for a fee or other remuneration from that
10 person, the broadcasting service is received at
11 the location of the office of the customer from
12 which the services were ordered in the regular
13 course of the customer's trade or business.
14 Accordingly, in such a case the revenue derived by
15 the taxpayer that is included in the taxpayer's
16 Illinois numerator of the sales factor is the
17 revenue from such customers who receive the
18 broadcasting service in Illinois.

19 (C) For taxable years ending before December 31, 2008,
20 sales, other than sales governed by paragraphs (B), (B-1),
21 and (B-2), are in this State if:

22 (i) The income-producing activity is performed in
23 this State; or

24 (ii) The income-producing activity is performed
25 both within and without this State and a greater
26 proportion of the income-producing activity is

1 performed within this State than without this State,
2 based on performance costs.

3 (C-5) For taxable years ending on or after December 31,
4 2008, sales, other than sales governed by paragraphs (B),
5 (B-1), (B-2), (B-5), and (B-7), are in this State if any of
6 the following criteria are met:

7 (i) Sales from the sale or lease of real property
8 are in this State if the property is located in this
9 State.

10 (ii) Sales from the lease or rental of tangible
11 personal property are in this State if the property is
12 located in this State during the rental period. Sales
13 from the lease or rental of tangible personal property
14 that is characteristically moving property, including,
15 but not limited to, motor vehicles, rolling stock,
16 aircraft, vessels, or mobile equipment are in this
17 State to the extent that the property is used in this
18 State.

19 (iii) In the case of interest, net gains (but not
20 less than zero) and other items of income from
21 intangible personal property, the sale is in this State
22 if:

23 (a) in the case of a taxpayer who is a dealer
24 in the item of intangible personal property within
25 the meaning of Section 475 of the Internal Revenue
26 Code, the income or gain is received from a

1 customer in this State. For purposes of this
2 subparagraph, a customer is in this State if the
3 customer is an individual, trust or estate who is a
4 resident of this State and, for all other
5 customers, if the customer's commercial domicile
6 is in this State. Unless the dealer has actual
7 knowledge of the residence or commercial domicile
8 of a customer during a taxable year, the customer
9 shall be deemed to be a customer in this State if
10 the billing address of the customer, as shown in
11 the records of the dealer, is in this State; or

12 (b) in all other cases, if the
13 income-producing activity of the taxpayer is
14 performed in this State or, if the
15 income-producing activity of the taxpayer is
16 performed both within and without this State, if a
17 greater proportion of the income-producing
18 activity of the taxpayer is performed within this
19 State than in any other state, based on performance
20 costs.

21 (iv) Sales of services are in this State if the
22 services are received in this State. For the purposes
23 of this section, gross receipts from the performance of
24 services provided to a corporation, partnership, or
25 trust may only be attributed to a state where that
26 corporation, partnership, or trust has a fixed place of

1 business. If the state where the services are received
2 is not readily determinable or is a state where the
3 corporation, partnership, or trust receiving the
4 service does not have a fixed place of business, the
5 services shall be deemed to be received at the location
6 of the office of the customer from which the services
7 were ordered in the regular course of the customer's
8 trade or business. If the ordering office cannot be
9 determined, the services shall be deemed to be received
10 at the office of the customer to which the services are
11 billed. If the taxpayer is not taxable in the state in
12 which the services are received, the sale must be
13 excluded from both the numerator and the denominator of
14 the sales factor. The Department shall adopt rules
15 prescribing where specific types of service are
16 received, including, but not limited to, publishing,
17 and utility service.

18 (D) For taxable years ending on or after December 31,
19 1995, the following items of income shall not be included
20 in the numerator or denominator of the sales factor:
21 dividends; amounts included under Section 78 of the
22 Internal Revenue Code; and Subpart F income as defined in
23 Section 952 of the Internal Revenue Code. No inference
24 shall be drawn from the enactment of this paragraph (D) in
25 construing this Section for taxable years ending before
26 December 31, 1995.

1 (E) Paragraphs (B-1) and (B-2) shall apply to tax years
2 ending on or after December 31, 1999, provided that a
3 taxpayer may elect to apply the provisions of these
4 paragraphs to prior tax years. Such election shall be made
5 in the form and manner prescribed by the Department, shall
6 be irrevocable, and shall apply to all tax years; provided
7 that, if a taxpayer's Illinois income tax liability for any
8 tax year, as assessed under Section 903 prior to January 1,
9 1999, was computed in a manner contrary to the provisions
10 of paragraphs (B-1) or (B-2), no refund shall be payable to
11 the taxpayer for that tax year to the extent such refund is
12 the result of applying the provisions of paragraph (B-1) or
13 (B-2) retroactively. In the case of a unitary business
14 group, such election shall apply to all members of such
15 group for every tax year such group is in existence, but
16 shall not apply to any taxpayer for any period during which
17 that taxpayer is not a member of such group.

18 (b) Insurance companies.

19 (1) In general. Except as otherwise provided by
20 paragraph (2), business income of an insurance company for
21 a taxable year shall be apportioned to this State by
22 multiplying such income by a fraction, the numerator of
23 which is the direct premiums written for insurance upon
24 property or risk in this State, and the denominator of
25 which is the direct premiums written for insurance upon
26 property or risk everywhere. For purposes of this

1 subsection, the term "direct premiums written" means the
2 total amount of direct premiums written, assessments and
3 annuity considerations as reported for the taxable year on
4 the annual statement filed by the company with the Illinois
5 Director of Insurance in the form approved by the National
6 Convention of Insurance Commissioners or such other form as
7 may be prescribed in lieu thereof.

8 (2) Reinsurance. If the principal source of premiums
9 written by an insurance company consists of premiums for
10 reinsurance accepted by it, the business income of such
11 company shall be apportioned to this State by multiplying
12 such income by a fraction, the numerator of which is the
13 sum of (i) direct premiums written for insurance upon
14 property or risk in this State, plus (ii) premiums written
15 for reinsurance accepted in respect of property or risk in
16 this State, and the denominator of which is the sum of
17 (iii) direct premiums written for insurance upon property
18 or risk everywhere, plus (iv) premiums written for
19 reinsurance accepted in respect of property or risk
20 everywhere. For purposes of this paragraph, premiums
21 written for reinsurance accepted in respect of property or
22 risk in this State, whether or not otherwise determinable,
23 may, at the election of the company, be determined on the
24 basis of the proportion which premiums written for
25 reinsurance accepted from companies commercially domiciled
26 in Illinois bears to premiums written for reinsurance

1 accepted from all sources, or, alternatively, in the
2 proportion which the sum of the direct premiums written for
3 insurance upon property or risk in this State by each
4 ceding company from which reinsurance is accepted bears to
5 the sum of the total direct premiums written by each such
6 ceding company for the taxable year. The election made by a
7 company under this paragraph for its first taxable year
8 ending on or after December 31, 2011, shall be binding for
9 that company for that taxable year and for all subsequent
10 taxable years, and may be altered only with the written
11 permission of the Department, which shall not be
12 unreasonably withheld.

13 (c) Financial organizations.

14 (1) In general. For taxable years ending before
15 December 31, 2008, business income of a financial
16 organization shall be apportioned to this State by
17 multiplying such income by a fraction, the numerator of
18 which is its business income from sources within this
19 State, and the denominator of which is its business income
20 from all sources. For the purposes of this subsection, the
21 business income of a financial organization from sources
22 within this State is the sum of the amounts referred to in
23 subparagraphs (A) through (E) following, but excluding the
24 adjusted income of an international banking facility as
25 determined in paragraph (2):

26 (A) Fees, commissions or other compensation for

1 financial services rendered within this State;

2 (B) Gross profits from trading in stocks, bonds or
3 other securities managed within this State;

4 (C) Dividends, and interest from Illinois
5 customers, which are received within this State;

6 (D) Interest charged to customers at places of
7 business maintained within this State for carrying
8 debit balances of margin accounts, without deduction
9 of any costs incurred in carrying such accounts; and

10 (E) Any other gross income resulting from the
11 operation as a financial organization within this
12 State. In computing the amounts referred to in
13 paragraphs (A) through (E) of this subsection, any
14 amount received by a member of an affiliated group
15 (determined under Section 1504(a) of the Internal
16 Revenue Code but without reference to whether any such
17 corporation is an "includible corporation" under
18 Section 1504(b) of the Internal Revenue Code) from
19 another member of such group shall be included only to
20 the extent such amount exceeds expenses of the
21 recipient directly related thereto.

22 (2) International Banking Facility. For taxable years
23 ending before December 31, 2008:

24 (A) Adjusted Income. The adjusted income of an
25 international banking facility is its income reduced
26 by the amount of the floor amount.

1 (B) Floor Amount. The floor amount shall be the
2 amount, if any, determined by multiplying the income of
3 the international banking facility by a fraction, not
4 greater than one, which is determined as follows:

5 (i) The numerator shall be:

6 The average aggregate, determined on a
7 quarterly basis, of the financial organization's
8 loans to banks in foreign countries, to foreign
9 domiciled borrowers (except where secured
10 primarily by real estate) and to foreign
11 governments and other foreign official
12 institutions, as reported for its branches,
13 agencies and offices within the state on its
14 "Consolidated Report of Condition", Schedule A,
15 Lines 2.c., 5.b., and 7.a., which was filed with
16 the Federal Deposit Insurance Corporation and
17 other regulatory authorities, for the year 1980,
18 minus

19 The average aggregate, determined on a
20 quarterly basis, of such loans (other than loans of
21 an international banking facility), as reported by
22 the financial institution for its branches,
23 agencies and offices within the state, on the
24 corresponding Schedule and lines of the
25 Consolidated Report of Condition for the current
26 taxable year, provided, however, that in no case

1 shall the amount determined in this clause (the
2 subtrahend) exceed the amount determined in the
3 preceding clause (the minuend); and

4 (ii) the denominator shall be the average
5 aggregate, determined on a quarterly basis, of the
6 international banking facility's loans to banks in
7 foreign countries, to foreign domiciled borrowers
8 (except where secured primarily by real estate)
9 and to foreign governments and other foreign
10 official institutions, which were recorded in its
11 financial accounts for the current taxable year.

12 (C) Change to Consolidated Report of Condition and
13 in Qualification. In the event the Consolidated Report
14 of Condition which is filed with the Federal Deposit
15 Insurance Corporation and other regulatory authorities
16 is altered so that the information required for
17 determining the floor amount is not found on Schedule
18 A, lines 2.c., 5.b. and 7.a., the financial institution
19 shall notify the Department and the Department may, by
20 regulations or otherwise, prescribe or authorize the
21 use of an alternative source for such information. The
22 financial institution shall also notify the Department
23 should its international banking facility fail to
24 qualify as such, in whole or in part, or should there
25 be any amendment or change to the Consolidated Report
26 of Condition, as originally filed, to the extent such

1 amendment or change alters the information used in
2 determining the floor amount.

3 (3) For taxable years ending on or after December 31,
4 2008, the business income of a financial organization shall
5 be apportioned to this State by multiplying such income by
6 a fraction, the numerator of which is its gross receipts
7 from sources in this State or otherwise attributable to
8 this State's marketplace and the denominator of which is
9 its gross receipts everywhere during the taxable year.
10 "Gross receipts" for purposes of this subparagraph (3)
11 means gross income, including net taxable gain on
12 disposition of assets, including securities and money
13 market instruments, when derived from transactions and
14 activities in the regular course of the financial
15 organization's trade or business. The following examples
16 are illustrative:

17 (i) Receipts from the lease or rental of real or
18 tangible personal property are in this State if the
19 property is located in this State during the rental
20 period. Receipts from the lease or rental of tangible
21 personal property that is characteristically moving
22 property, including, but not limited to, motor
23 vehicles, rolling stock, aircraft, vessels, or mobile
24 equipment are from sources in this State to the extent
25 that the property is used in this State.

26 (ii) Interest income, commissions, fees, gains on

1 disposition, and other receipts from assets in the
2 nature of loans that are secured primarily by real
3 estate or tangible personal property are from sources
4 in this State if the security is located in this State.

5 (iii) Interest income, commissions, fees, gains on
6 disposition, and other receipts from consumer loans
7 that are not secured by real or tangible personal
8 property are from sources in this State if the debtor
9 is a resident of this State.

10 (iv) Interest income, commissions, fees, gains on
11 disposition, and other receipts from commercial loans
12 and installment obligations that are not secured by
13 real or tangible personal property are from sources in
14 this State if the proceeds of the loan are to be
15 applied in this State. If it cannot be determined where
16 the funds are to be applied, the income and receipts
17 are from sources in this State if the office of the
18 borrower from which the loan was negotiated in the
19 regular course of business is located in this State. If
20 the location of this office cannot be determined, the
21 income and receipts shall be excluded from the
22 numerator and denominator of the sales factor.

23 (v) Interest income, fees, gains on disposition,
24 service charges, merchant discount income, and other
25 receipts from credit card receivables are from sources
26 in this State if the card charges are regularly billed

1 to a customer in this State.

2 (vi) Receipts from the performance of services,
3 including, but not limited to, fiduciary, advisory,
4 and brokerage services, are in this State if the
5 services are received in this State within the meaning
6 of subparagraph (a) (3) (C-5) (iv) of this Section.

7 (vii) Receipts from the issuance of travelers
8 checks and money orders are from sources in this State
9 if the checks and money orders are issued from a
10 location within this State.

11 (viii) Receipts from investment assets and
12 activities and trading assets and activities are
13 included in the receipts factor as follows:

14 (1) Interest, dividends, net gains (but not
15 less than zero) and other income from investment
16 assets and activities from trading assets and
17 activities shall be included in the receipts
18 factor. Investment assets and activities and
19 trading assets and activities include but are not
20 limited to: investment securities; trading account
21 assets; federal funds; securities purchased and
22 sold under agreements to resell or repurchase;
23 options; futures contracts; forward contracts;
24 notional principal contracts such as swaps;
25 equities; and foreign currency transactions. With
26 respect to the investment and trading assets and

1 activities described in subparagraphs (A) and (B)
2 of this paragraph, the receipts factor shall
3 include the amounts described in such
4 subparagraphs.

5 (A) The receipts factor shall include the
6 amount by which interest from federal funds
7 sold and securities purchased under resale
8 agreements exceeds interest expense on federal
9 funds purchased and securities sold under
10 repurchase agreements.

11 (B) The receipts factor shall include the
12 amount by which interest, dividends, gains and
13 other income from trading assets and
14 activities, including but not limited to
15 assets and activities in the matched book, in
16 the arbitrage book, and foreign currency
17 transactions, exceed amounts paid in lieu of
18 interest, amounts paid in lieu of dividends,
19 and losses from such assets and activities.

20 (2) The numerator of the receipts factor
21 includes interest, dividends, net gains (but not
22 less than zero), and other income from investment
23 assets and activities and from trading assets and
24 activities described in paragraph (1) of this
25 subsection that are attributable to this State.

26 (A) The amount of interest, dividends, net

1 gains (but not less than zero), and other
2 income from investment assets and activities
3 in the investment account to be attributed to
4 this State and included in the numerator is
5 determined by multiplying all such income from
6 such assets and activities by a fraction, the
7 numerator of which is the gross income from
8 such assets and activities which are properly
9 assigned to a fixed place of business of the
10 taxpayer within this State and the denominator
11 of which is the gross income from all such
12 assets and activities.

13 (B) The amount of interest from federal
14 funds sold and purchased and from securities
15 purchased under resale agreements and
16 securities sold under repurchase agreements
17 attributable to this State and included in the
18 numerator is determined by multiplying the
19 amount described in subparagraph (A) of
20 paragraph (1) of this subsection from such
21 funds and such securities by a fraction, the
22 numerator of which is the gross income from
23 such funds and such securities which are
24 properly assigned to a fixed place of business
25 of the taxpayer within this State and the
26 denominator of which is the gross income from

1 all such funds and such securities.

2 (C) The amount of interest, dividends,
3 gains, and other income from trading assets and
4 activities, including but not limited to
5 assets and activities in the matched book, in
6 the arbitrage book and foreign currency
7 transactions (but excluding amounts described
8 in subparagraphs (A) or (B) of this paragraph),
9 attributable to this State and included in the
10 numerator is determined by multiplying the
11 amount described in subparagraph (B) of
12 paragraph (1) of this subsection by a fraction,
13 the numerator of which is the gross income from
14 such trading assets and activities which are
15 properly assigned to a fixed place of business
16 of the taxpayer within this State and the
17 denominator of which is the gross income from
18 all such assets and activities.

19 (D) Properly assigned, for purposes of
20 this paragraph (2) of this subsection, means
21 the investment or trading asset or activity is
22 assigned to the fixed place of business with
23 which it has a preponderance of substantive
24 contacts. An investment or trading asset or
25 activity assigned by the taxpayer to a fixed
26 place of business without the State shall be

1 presumed to have been properly assigned if:

2 (i) the taxpayer has assigned, in the
3 regular course of its business, such asset
4 or activity on its records to a fixed place
5 of business consistent with federal or
6 state regulatory requirements;

7 (ii) such assignment on its records is
8 based upon substantive contacts of the
9 asset or activity to such fixed place of
10 business; and

11 (iii) the taxpayer uses such records
12 reflecting assignment of such assets or
13 activities for the filing of all state and
14 local tax returns for which an assignment
15 of such assets or activities to a fixed
16 place of business is required.

17 (E) The presumption of proper assignment
18 of an investment or trading asset or activity
19 provided in subparagraph (D) of paragraph (2)
20 of this subsection may be rebutted upon a
21 showing by the Department, supported by a
22 preponderance of the evidence, that the
23 preponderance of substantive contacts
24 regarding such asset or activity did not occur
25 at the fixed place of business to which it was
26 assigned on the taxpayer's records. If the

1 fixed place of business that has a
2 preponderance of substantive contacts cannot
3 be determined for an investment or trading
4 asset or activity to which the presumption in
5 subparagraph (D) of paragraph (2) of this
6 subsection does not apply or with respect to
7 which that presumption has been rebutted, that
8 asset or activity is properly assigned to the
9 state in which the taxpayer's commercial
10 domicile is located. For purposes of this
11 subparagraph (E), it shall be presumed,
12 subject to rebuttal, that taxpayer's
13 commercial domicile is in the state of the
14 United States or the District of Columbia to
15 which the greatest number of employees are
16 regularly connected with the management of the
17 investment or trading income or out of which
18 they are working, irrespective of where the
19 services of such employees are performed, as of
20 the last day of the taxable year.

21 (4) (Blank).

22 (5) (Blank).

23 (c-1) Federally-regulated exchanges. For taxable years
24 ending on or after December 31, 2012, business income of a
25 federally-regulated exchange shall, at the option of the
26 federally-regulated exchange, be apportioned to this State by

1 multiplying such income by a fraction, the numerator of which
2 is its business income from sources within this State, and the
3 denominator of which is its business income from all sources.
4 For purposes of this subsection, the business income within
5 this State of a federally-regulated exchange is the sum of the
6 following:

7 (1) Receipts attributable to transactions executed on
8 a physical trading floor if that physical trading floor is
9 located in this State.

10 (2) Receipts attributable to all other matching,
11 execution, or clearing transactions, including without
12 limitation receipts from the provision of matching,
13 execution, or clearing services to another entity,
14 multiplied by (i) for taxable years ending on or after
15 December 31, 2012 but before December 31, 2013, 63.77%; and
16 (ii) for taxable years ending on or after December 31,
17 2013, 27.54%.

18 (3) Receipts from all other sales of services if the
19 services are received in this State. For the purposes of
20 this subsection, gross receipts from the performance of
21 services provided to a corporation, partnership, or trust
22 may only be attributed to a state where that corporation,
23 partnership, or trust has a fixed place of business. If the
24 state where the services are received is not readily
25 determinable or is a state where the corporation,
26 partnership, or trust receiving the service does not have a

1 fixed place of business, the services shall be deemed to be
2 received at the location of the office of the customer from
3 which the services were ordered in the regular course of
4 the customer's trade or business. If the ordering office
5 cannot be determined, the services shall be deemed to be
6 received at the office of the customer to whom the services
7 are billed.

8 (4) All other receipts not governed by subparagraphs
9 (1), (2), or (3) of this subsection (c-1), to the extent
10 the receipts would be characterized as "sales in this
11 State" under item (3) of subsection (a) of this Section.

12 "Federally-regulated exchange" means (i) a "registered
13 entity" within the meaning of 7 U.S.C. Section 1a(40) (A), (B),
14 or (C), (ii) an "exchange" or "clearing agency" within the
15 meaning of 15 U.S.C. Section 78c (a) (1) or (23), (iii) any such
16 entities regulated under any successor regulatory structure to
17 the foregoing, and (iv) all taxpayers who are members of the
18 same unitary business group as a federally-regulated exchange,
19 determined without regard to the prohibition in Section
20 1501(a) (27) of this Act against including in a unitary business
21 group taxpayers who are ordinarily required to apportion
22 business income under different subsections of this Section;
23 provided that this subparagraph (iv) shall apply only if 50% or
24 more of the business receipts of the unitary business group
25 determined by application of this subparagraph (iv) for the
26 taxable year are attributable to the matching, execution, or

1 clearing of transactions conducted by an entity described in
2 subparagraph (i), (ii), or (iii) of this paragraph.

3 In no event shall the Illinois apportionment percentage
4 computed in accordance with this subsection (c-1) for any
5 taxpayer for any tax year be less than the Illinois
6 apportionment percentage computed under this subsection (c-1)
7 for that taxpayer for the first full tax year ending on or
8 after December 31, 2013 for which this subsection (c-1) applied
9 to the taxpayer.

10 (d) Transportation services. For taxable years ending
11 before December 31, 2008, business income derived from
12 furnishing transportation services shall be apportioned to
13 this State in accordance with paragraphs (1) and (2):

14 (1) Such business income (other than that derived from
15 transportation by pipeline) shall be apportioned to this
16 State by multiplying such income by a fraction, the
17 numerator of which is the revenue miles of the person in
18 this State, and the denominator of which is the revenue
19 miles of the person everywhere. For purposes of this
20 paragraph, a revenue mile is the transportation of 1
21 passenger or 1 net ton of freight the distance of 1 mile
22 for a consideration. Where a person is engaged in the
23 transportation of both passengers and freight, the
24 fraction above referred to shall be determined by means of
25 an average of the passenger revenue mile fraction and the
26 freight revenue mile fraction, weighted to reflect the

1 person's

2 (A) relative railway operating income from total
3 passenger and total freight service, as reported to the
4 Interstate Commerce Commission, in the case of
5 transportation by railroad, and

6 (B) relative gross receipts from passenger and
7 freight transportation, in case of transportation
8 other than by railroad.

9 (2) Such business income derived from transportation
10 by pipeline shall be apportioned to this State by
11 multiplying such income by a fraction, the numerator of
12 which is the revenue miles of the person in this State, and
13 the denominator of which is the revenue miles of the person
14 everywhere. For the purposes of this paragraph, a revenue
15 mile is the transportation by pipeline of 1 barrel of oil,
16 1,000 cubic feet of gas, or of any specified quantity of
17 any other substance, the distance of 1 mile for a
18 consideration.

19 (3) For taxable years ending on or after December 31,
20 2008, business income derived from providing
21 transportation services other than airline services shall
22 be apportioned to this State by using a fraction, (a) the
23 numerator of which shall be (i) all receipts from any
24 movement or shipment of people, goods, mail, oil, gas, or
25 any other substance (other than by airline) that both
26 originates and terminates in this State, plus (ii) that

1 portion of the person's gross receipts from movements or
2 shipments of people, goods, mail, oil, gas, or any other
3 substance (other than by airline) that originates in one
4 state or jurisdiction and terminates in another state or
5 jurisdiction, that is determined by the ratio that the
6 miles traveled in this State bears to total miles
7 everywhere and (b) the denominator of which shall be all
8 revenue derived from the movement or shipment of people,
9 goods, mail, oil, gas, or any other substance (other than
10 by airline). Where a taxpayer is engaged in the
11 transportation of both passengers and freight, the
12 fraction above referred to shall first be determined
13 separately for passenger miles and freight miles. Then an
14 average of the passenger miles fraction and the freight
15 miles fraction shall be weighted to reflect the taxpayer's:

16 (A) relative railway operating income from total
17 passenger and total freight service, as reported to the
18 Surface Transportation Board, in the case of
19 transportation by railroad; and

20 (B) relative gross receipts from passenger and
21 freight transportation, in case of transportation
22 other than by railroad.

23 (4) For taxable years ending on or after December 31,
24 2008, business income derived from furnishing airline
25 transportation services shall be apportioned to this State
26 by multiplying such income by a fraction, the numerator of

1 which is the revenue miles of the person in this State, and
2 the denominator of which is the revenue miles of the person
3 everywhere. For purposes of this paragraph, a revenue mile
4 is the transportation of one passenger or one net ton of
5 freight the distance of one mile for a consideration. If a
6 person is engaged in the transportation of both passengers
7 and freight, the fraction above referred to shall be
8 determined by means of an average of the passenger revenue
9 mile fraction and the freight revenue mile fraction,
10 weighted to reflect the person's relative gross receipts
11 from passenger and freight airline transportation.

12 (e) Combined apportionment. Where 2 or more persons are
13 engaged in a unitary business as described in subsection
14 (a)(27) of Section 1501, a part of which is conducted in this
15 State by one or more members of the group, the business income
16 attributable to this State by any such member or members shall
17 be apportioned by means of the combined apportionment method.

18 (f) Alternative allocation. If the allocation and
19 apportionment provisions of subsections (a) through (e) and of
20 subsection (h) do not fairly represent the extent of a person's
21 business activity in this State, the person may petition for,
22 or the Director may, without a petition, permit or require, in
23 respect of all or any part of the person's business activity,
24 if reasonable:

25 (1) Separate accounting;

26 (2) The exclusion of any one or more factors;

1 (3) The inclusion of one or more additional factors
2 which will fairly represent the person's business
3 activities in this State; or

4 (4) The employment of any other method to effectuate an
5 equitable allocation and apportionment of the person's
6 business income.

7 (g) Cross reference. For allocation of business income by
8 residents, see Section 301(a).

9 (h) For tax years ending on or after December 31, 1998, the
10 apportionment factor of persons who apportion their business
11 income to this State under subsection (a) shall be equal to:

12 (1) for tax years ending on or after December 31, 1998
13 and before December 31, 1999, $16 \frac{2}{3}\%$ of the property
14 factor plus $16 \frac{2}{3}\%$ of the payroll factor plus $66 \frac{2}{3}\%$ of
15 the sales factor;

16 (2) for tax years ending on or after December 31, 1999
17 and before December 31, 2000, $8 \frac{1}{3}\%$ of the property factor
18 plus $8 \frac{1}{3}\%$ of the payroll factor plus $83 \frac{1}{3}\%$ of the sales
19 factor;

20 (3) for tax years ending on or after December 31, 2000,
21 the sales factor.

22 If, in any tax year ending on or after December 31, 1998 and
23 before December 31, 2000, the denominator of the payroll,
24 property, or sales factor is zero, the apportionment factor
25 computed in paragraph (1) or (2) of this subsection for that
26 year shall be divided by an amount equal to 100% minus the

1 percentage weight given to each factor whose denominator is
2 equal to zero.

3 (Source: P.A. 96-763, eff. 8-25-09; 97-507, eff. 8-23-11.)

4 (35 ILCS 5/804) (from Ch. 120, par. 8-804)

5 Sec. 804. Failure to Pay Estimated Tax.

6 (a) In general. In case of any underpayment of estimated
7 tax by a taxpayer, except as provided in subsection (d) or (e),
8 the taxpayer shall be liable to a penalty in an amount
9 determined at the rate prescribed by Section 3-3 of the Uniform
10 Penalty and Interest Act upon the amount of the underpayment
11 (determined under subsection (b)) for each required
12 installment.

13 (b) Amount of underpayment. For purposes of subsection (a),
14 the amount of the underpayment shall be the excess of:

15 (1) the amount of the installment which would be
16 required to be paid under subsection (c), over

17 (2) the amount, if any, of the installment paid on or
18 before the last date prescribed for payment.

19 (c) Amount of Required Installments.

20 (1) Amount.

21 (A) In General. Except as provided in paragraphs
22 ~~paragraph~~ (2) and (3), the amount of any required
23 installment shall be 25% of the required annual
24 payment.

25 (B) Required Annual Payment. For purposes of

1 subparagraph (A), the term "required annual payment"
2 means the lesser of:

3 (i) 90% of the tax shown on the return for the
4 taxable year, or if no return is filed, 90% of the
5 tax for such year;

6 (ii) for installments due prior to February 1,
7 2011, and after January 31, 2012, 100% of the tax
8 shown on the return of the taxpayer for the
9 preceding taxable year if a return showing a
10 liability for tax was filed by the taxpayer for the
11 preceding taxable year and such preceding year was
12 a taxable year of 12 months; or

13 (iii) for installments due after January 31,
14 2011, and prior to February 1, 2012, 150% of the
15 tax shown on the return of the taxpayer for the
16 preceding taxable year if a return showing a
17 liability for tax was filed by the taxpayer for the
18 preceding taxable year and such preceding year was
19 a taxable year of 12 months.

20 (2) Lower Required Installment where Annualized Income
21 Installment is Less Than Amount Determined Under Paragraph
22 (1).

23 (A) In General. In the case of any required
24 installment if a taxpayer establishes that the
25 annualized income installment is less than the amount
26 determined under paragraph (1),

1 (i) the amount of such required installment
2 shall be the annualized income installment, and

3 (ii) any reduction in a required installment
4 resulting from the application of this
5 subparagraph shall be recaptured by increasing the
6 amount of the next required installment determined
7 under paragraph (1) by the amount of such
8 reduction, and by increasing subsequent required
9 installments to the extent that the reduction has
10 not previously been recaptured under this clause.

11 (B) Determination of Annualized Income
12 Installment. In the case of any required installment,
13 the annualized income installment is the excess, if
14 any, of:

15 (i) an amount equal to the applicable
16 percentage of the tax for the taxable year computed
17 by placing on an annualized basis the net income
18 for months in the taxable year ending before the
19 due date for the installment, over

20 (ii) the aggregate amount of any prior
21 required installments for the taxable year.

22 (C) Applicable Percentage.

23	In the case of the following	The applicable
24	required installments:	percentage is:
25	1st.....	22.5%
26	2nd.....	45%

1	3rd.....	67.5%
2	4th.....	90%

3 (D) Annualized Net Income; Individuals. For
 4 individuals, net income shall be placed on an
 5 annualized basis by:

6 (i) multiplying by 12, or in the case of a
 7 taxable year of less than 12 months, by the number
 8 of months in the taxable year, the net income
 9 computed without regard to the standard exemption
 10 for the months in the taxable year ending before
 11 the month in which the installment is required to
 12 be paid;

13 (ii) dividing the resulting amount by the
 14 number of months in the taxable year ending before
 15 the month in which such installment date falls; and

16 (iii) deducting from such amount the standard
 17 exemption allowable for the taxable year, such
 18 standard exemption being determined as of the last
 19 date prescribed for payment of the installment.

20 (E) Annualized Net Income; Corporations. For
 21 corporations, net income shall be placed on an
 22 annualized basis by multiplying by 12 the taxable
 23 income

24 (i) for the first 3 months of the taxable year,
 25 in the case of the installment required to be paid
 26 in the 4th month,

1 (ii) for the first 3 months or for the first 5
2 months of the taxable year, in the case of the
3 installment required to be paid in the 6th month,

4 (iii) for the first 6 months or for the first 8
5 months of the taxable year, in the case of the
6 installment required to be paid in the 9th month,
7 and

8 (iv) for the first 9 months or for the first 11
9 months of the taxable year, in the case of the
10 installment required to be paid in the 12th month
11 of the taxable year,

12 then dividing the resulting amount by the number of
13 months in the taxable year (3, 5, 6, 8, 9, or 11 as the
14 case may be).

15 (3) Notwithstanding any other provision of this
16 subsection (c), in the case of a federally-regulated
17 exchange that elects to apportion its income under Section
18 304(c-1) of this Act, the amount of each required
19 installment due prior to June 30 of the first taxable year
20 to which the election applies shall be 25% of the tax that
21 would have been shown on the return for that taxable year
22 if the taxpayer had not made such election.

23 (d) Exceptions. Notwithstanding the provisions of the
24 preceding subsections, the penalty imposed by subsection (a)
25 shall not be imposed if the taxpayer was not required to file
26 an Illinois income tax return for the preceding taxable year,

1 or, for individuals, if the taxpayer had no tax liability for
2 the preceding taxable year and such year was a taxable year of
3 12 months. The penalty imposed by subsection (a) shall also not
4 be imposed on any underpayments of estimated tax due before the
5 effective date of this amendatory Act of 1998 which
6 underpayments are solely attributable to the change in
7 apportionment from subsection (a) to subsection (h) of Section
8 304. The provisions of this amendatory Act of 1998 apply to tax
9 years ending on or after December 31, 1998.

10 (e) The penalty imposed for underpayment of estimated tax
11 by subsection (a) of this Section shall not be imposed to the
12 extent that the Director or his or her designate determines,
13 pursuant to Section 3-8 of the Uniform Penalty and Interest Act
14 that the penalty should not be imposed.

15 (f) Definition of tax. For purposes of subsections (b) and
16 (c), the term "tax" means the excess of the tax imposed under
17 Article 2 of this Act, over the amounts credited against such
18 tax under Sections 601(b) (3) and (4).

19 (g) Application of Section in case of tax withheld under
20 Article 7. For purposes of applying this Section:

21 (1) tax withheld from compensation for the taxable year
22 shall be deemed a payment of estimated tax, and an equal
23 part of such amount shall be deemed paid on each
24 installment date for such taxable year, unless the taxpayer
25 establishes the dates on which all amounts were actually
26 withheld, in which case the amounts so withheld shall be

1 deemed payments of estimated tax on the dates on which such
2 amounts were actually withheld;

3 (2) amounts timely paid by a partnership, Subchapter S
4 corporation, or trust on behalf of a partner, shareholder,
5 or beneficiary pursuant to subsection (f) of Section 502 or
6 Section 709.5 and claimed as a payment of estimated tax
7 shall be deemed a payment of estimated tax made on the last
8 day of the taxable year of the partnership, Subchapter S
9 corporation, or trust for which the income from the
10 withholding is made was computed; and

11 (3) all other amounts pursuant to Article 7 shall be
12 deemed a payment of estimated tax on the date the payment
13 is made to the taxpayer of the amount from which the tax is
14 withheld.

15 (g-5) Amounts withheld under the State Salary and Annuity
16 Withholding Act. An individual who has amounts withheld under
17 paragraph (10) of Section 4 of the State Salary and Annuity
18 Withholding Act may elect to have those amounts treated as
19 payments of estimated tax made on the dates on which those
20 amounts are actually withheld.

21 (i) Short taxable year. The application of this Section to
22 taxable years of less than 12 months shall be in accordance
23 with regulations prescribed by the Department.

24 The changes in this Section made by Public Act 84-127 shall
25 apply to taxable years ending on or after January 1, 1986.

26 (Source: P.A. 96-1496, eff. 1-13-11; 97-507, eff. 8-23-11;

1 revised 11-18-11.)

2 (35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

3 Sec. 1501. Definitions.

4 (a) In general. When used in this Act, where not otherwise
5 distinctly expressed or manifestly incompatible with the
6 intent thereof:

7 (1) Business income. The term "business income" means
8 all income that may be treated as apportionable business
9 income under the Constitution of the United States.
10 Business income is net of the deductions allocable thereto.
11 Such term does not include compensation or the deductions
12 allocable thereto. For each taxable year beginning on or
13 after January 1, 2003, a taxpayer may elect to treat all
14 income other than compensation as business income. This
15 election shall be made in accordance with rules adopted by
16 the Department and, once made, shall be irrevocable.

17 (1.5) Captive real estate investment trust:

18 (A) The term "captive real estate investment
19 trust" means a corporation, trust, or association:

20 (i) that is considered a real estate
21 investment trust for the taxable year under
22 Section 856 of the Internal Revenue Code;

23 (ii) the certificates of beneficial interest
24 or shares of which are not regularly traded on an
25 established securities market; and

1 (iii) of which more than 50% of the voting
2 power or value of the beneficial interest or
3 shares, at any time during the last half of the
4 taxable year, is owned or controlled, directly,
5 indirectly, or constructively, by a single
6 corporation.

7 (B) The term "captive real estate investment
8 trust" does not include:

9 (i) a real estate investment trust of which
10 more than 50% of the voting power or value of the
11 beneficial interest or shares is owned or
12 controlled, directly, indirectly, or
13 constructively, by:

14 (a) a real estate investment trust, other
15 than a captive real estate investment trust;

16 (b) a person who is exempt from taxation
17 under Section 501 of the Internal Revenue Code,
18 and who is not required to treat income
19 received from the real estate investment trust
20 as unrelated business taxable income under
21 Section 512 of the Internal Revenue Code;

22 (c) a listed Australian property trust, if
23 no more than 50% of the voting power or value
24 of the beneficial interest or shares of that
25 trust, at any time during the last half of the
26 taxable year, is owned or controlled, directly

1 or indirectly, by a single person;

2 (d) an entity organized as a trust,
3 provided a listed Australian property trust
4 described in subparagraph (c) owns or
5 controls, directly or indirectly, or
6 constructively, 75% or more of the voting power
7 or value of the beneficial interests or shares
8 of such entity; or

9 (e) an entity that is organized outside of
10 the laws of the United States and that
11 satisfies all of the following criteria:

12 (1) at least 75% of the entity's total
13 asset value at the close of its taxable
14 year is represented by real estate assets
15 (as defined in Section 856(c)(5)(B) of the
16 Internal Revenue Code, thereby including
17 shares or certificates of beneficial
18 interest in any real estate investment
19 trust), cash and cash equivalents, and
20 U.S. Government securities;

21 (2) the entity is not subject to tax on
22 amounts that are distributed to its
23 beneficial owners or is exempt from
24 entity-level taxation;

25 (3) the entity distributes at least
26 85% of its taxable income (as computed in

1 the jurisdiction in which it is organized)
2 to the holders of its shares or
3 certificates of beneficial interest on an
4 annual basis;

5 (4) either (i) the shares or
6 beneficial interests of the entity are
7 regularly traded on an established
8 securities market or (ii) not more than 10%
9 of the voting power or value in the entity
10 is held, directly, indirectly, or
11 constructively, by a single entity or
12 individual; and

13 (5) the entity is organized in a
14 country that has entered into a tax treaty
15 with the United States; or

16 (ii) during its first taxable year for which it
17 elects to be treated as a real estate investment
18 trust under Section 856(c)(1) of the Internal
19 Revenue Code, a real estate investment trust the
20 certificates of beneficial interest or shares of
21 which are not regularly traded on an established
22 securities market, but only if the certificates of
23 beneficial interest or shares of the real estate
24 investment trust are regularly traded on an
25 established securities market prior to the earlier
26 of the due date (including extensions) for filing

1 its return under this Act for that first taxable
2 year or the date it actually files that return.

3 (C) For the purposes of this subsection (1.5), the
4 constructive ownership rules prescribed under Section
5 318(a) of the Internal Revenue Code, as modified by
6 Section 856(d)(5) of the Internal Revenue Code, apply
7 in determining the ownership of stock, assets, or net
8 profits of any person.

9 (2) Commercial domicile. The term "commercial
10 domicile" means the principal place from which the trade or
11 business of the taxpayer is directed or managed.

12 (3) Compensation. The term "compensation" means wages,
13 salaries, commissions and any other form of remuneration
14 paid to employees for personal services.

15 (4) Corporation. The term "corporation" includes
16 associations, joint-stock companies, insurance companies
17 and cooperatives. Any entity, including a limited
18 liability company formed under the Illinois Limited
19 Liability Company Act, shall be treated as a corporation if
20 it is so classified for federal income tax purposes.

21 (5) Department. The term "Department" means the
22 Department of Revenue of this State.

23 (6) Director. The term "Director" means the Director of
24 Revenue of this State.

25 (7) Fiduciary. The term "fiduciary" means a guardian,
26 trustee, executor, administrator, receiver, or any person

1 acting in any fiduciary capacity for any person.

2 (8) Financial organization.

3 (A) The term "financial organization" means any
4 bank, bank holding company, trust company, savings
5 bank, industrial bank, land bank, safe deposit
6 company, private banker, savings and loan association,
7 building and loan association, credit union, currency
8 exchange, cooperative bank, small loan company, sales
9 finance company, investment company, or any person
10 which is owned by a bank or bank holding company. For
11 the purpose of this Section a "person" will include
12 only those persons which a bank holding company may
13 acquire and hold an interest in, directly or
14 indirectly, under the provisions of the Bank Holding
15 Company Act of 1956 (12 U.S.C. 1841, et seq.), except
16 where interests in any person must be disposed of
17 within certain required time limits under the Bank
18 Holding Company Act of 1956.

19 (B) For purposes of subparagraph (A) of this
20 paragraph, the term "bank" includes (i) any entity that
21 is regulated by the Comptroller of the Currency under
22 the National Bank Act, or by the Federal Reserve Board,
23 or by the Federal Deposit Insurance Corporation and
24 (ii) any federally or State chartered bank operating as
25 a credit card bank.

26 (C) For purposes of subparagraph (A) of this

1 paragraph, the term "sales finance company" has the
2 meaning provided in the following item (i) or (ii):

3 (i) A person primarily engaged in one or more
4 of the following businesses: the business of
5 purchasing customer receivables, the business of
6 making loans upon the security of customer
7 receivables, the business of making loans for the
8 express purpose of funding purchases of tangible
9 personal property or services by the borrower, or
10 the business of finance leasing. For purposes of
11 this item (i), "customer receivable" means:

12 (a) a retail installment contract or
13 retail charge agreement within the meaning of
14 the Sales Finance Agency Act, the Retail
15 Installment Sales Act, or the Motor Vehicle
16 Retail Installment Sales Act;

17 (b) an installment, charge, credit, or
18 similar contract or agreement arising from the
19 sale of tangible personal property or services
20 in a transaction involving a deferred payment
21 price payable in one or more installments
22 subsequent to the sale; or

23 (c) the outstanding balance of a contract
24 or agreement described in provisions (a) or (b)
25 of this item (i).

26 A customer receivable need not provide for

1 payment of interest on deferred payments. A sales
2 finance company may purchase a customer receivable
3 from, or make a loan secured by a customer
4 receivable to, the seller in the original
5 transaction or to a person who purchased the
6 customer receivable directly or indirectly from
7 that seller.

8 (ii) A corporation meeting each of the
9 following criteria:

10 (a) the corporation must be a member of an
11 "affiliated group" within the meaning of
12 Section 1504(a) of the Internal Revenue Code,
13 determined without regard to Section 1504(b)
14 of the Internal Revenue Code;

15 (b) more than 50% of the gross income of
16 the corporation for the taxable year must be
17 interest income derived from qualifying loans.
18 A "qualifying loan" is a loan made to a member
19 of the corporation's affiliated group that
20 originates customer receivables (within the
21 meaning of item (i)) or to whom customer
22 receivables originated by a member of the
23 affiliated group have been transferred, to the
24 extent the average outstanding balance of
25 loans from that corporation to members of its
26 affiliated group during the taxable year do not

1 exceed the limitation amount for that
2 corporation. The "limitation amount" for a
3 corporation is the average outstanding
4 balances during the taxable year of customer
5 receivables (within the meaning of item (i))
6 originated by all members of the affiliated
7 group. If the average outstanding balances of
8 the loans made by a corporation to members of
9 its affiliated group exceed the limitation
10 amount, the interest income of that
11 corporation from qualifying loans shall be
12 equal to its interest income from loans to
13 members of its affiliated groups times a
14 fraction equal to the limitation amount
15 divided by the average outstanding balances of
16 the loans made by that corporation to members
17 of its affiliated group;

18 (c) the total of all shareholder's equity
19 (including, without limitation, paid-in
20 capital on common and preferred stock and
21 retained earnings) of the corporation plus the
22 total of all of its loans, advances, and other
23 obligations payable or owed to members of its
24 affiliated group may not exceed 20% of the
25 total assets of the corporation at any time
26 during the tax year; and

1 (d) more than 50% of all interest-bearing
2 obligations of the affiliated group payable to
3 persons outside the group determined in
4 accordance with generally accepted accounting
5 principles must be obligations of the
6 corporation.

7 This amendatory Act of the 91st General Assembly is
8 declaratory of existing law.

9 (D) Subparagraphs (B) and (C) of this paragraph are
10 declaratory of existing law and apply retroactively,
11 for all tax years beginning on or before December 31,
12 1996, to all original returns, to all amended returns
13 filed no later than 30 days after the effective date of
14 this amendatory Act of 1996, and to all notices issued
15 on or before the effective date of this amendatory Act
16 of 1996 under subsection (a) of Section 903, subsection
17 (a) of Section 904, subsection (e) of Section 909, or
18 Section 912. A taxpayer that is a "financial
19 organization" that engages in any transaction with an
20 affiliate shall be a "financial organization" for all
21 purposes of this Act.

22 (E) For all tax years beginning on or before
23 December 31, 1996, a taxpayer that falls within the
24 definition of a "financial organization" under
25 subparagraphs (B) or (C) of this paragraph, but who
26 does not fall within the definition of a "financial

1 organization" under the Proposed Regulations issued by
2 the Department of Revenue on July 19, 1996, may
3 irrevocably elect to apply the Proposed Regulations
4 for all of those years as though the Proposed
5 Regulations had been lawfully promulgated, adopted,
6 and in effect for all of those years. For purposes of
7 applying subparagraphs (B) or (C) of this paragraph to
8 all of those years, the election allowed by this
9 subparagraph applies only to the taxpayer making the
10 election and to those members of the taxpayer's unitary
11 business group who are ordinarily required to
12 apportion business income under the same subsection of
13 Section 304 of this Act as the taxpayer making the
14 election. No election allowed by this subparagraph
15 shall be made under a claim filed under subsection (d)
16 of Section 909 more than 30 days after the effective
17 date of this amendatory Act of 1996.

18 (F) Finance Leases. For purposes of this
19 subsection, a finance lease shall be treated as a loan
20 or other extension of credit, rather than as a lease,
21 regardless of how the transaction is characterized for
22 any other purpose, including the purposes of any
23 regulatory agency to which the lessor is subject. A
24 finance lease is any transaction in the form of a lease
25 in which the lessee is treated as the owner of the
26 leased asset entitled to any deduction for

1 depreciation allowed under Section 167 of the Internal
2 Revenue Code.

3 (9) Fiscal year. The term "fiscal year" means an
4 accounting period of 12 months ending on the last day of
5 any month other than December.

6 (9.5) Fixed place of business. The term "fixed place of
7 business" has the same meaning as that term is given in
8 Section 864 of the Internal Revenue Code and the related
9 Treasury regulations.

10 (10) Includes and including. The terms "includes" and
11 "including" when used in a definition contained in this Act
12 shall not be deemed to exclude other things otherwise
13 within the meaning of the term defined.

14 (11) Internal Revenue Code. The term "Internal Revenue
15 Code" means the United States Internal Revenue Code of 1954
16 or any successor law or laws relating to federal income
17 taxes in effect for the taxable year.

18 (11.5) Investment partnership.

19 (A) The term "investment partnership" means any
20 entity that is treated as a partnership for federal
21 income tax purposes that meets the following
22 requirements:

23 (i) no less than 90% of the partnership's cost
24 of its total assets consists of qualifying
25 investment securities, deposits at banks or other
26 financial institutions, and office space and

1 equipment reasonably necessary to carry on its
2 activities as an investment partnership;

3 (ii) no less than 90% of its gross income
4 consists of interest, dividends, and gains from
5 the sale or exchange of qualifying investment
6 securities; and

7 (iii) the partnership is not a dealer in
8 qualifying investment securities.

9 (B) For purposes of this paragraph (11.5), the term
10 "qualifying investment securities" includes all of the
11 following:

12 (i) common stock, including preferred or debt
13 securities convertible into common stock, and
14 preferred stock;

15 (ii) bonds, debentures, and other debt
16 securities;

17 (iii) foreign and domestic currency deposits
18 secured by federal, state, or local governmental
19 agencies;

20 (iv) mortgage or asset-backed securities
21 secured by federal, state, or local governmental
22 agencies;

23 (v) repurchase agreements and loan
24 participations;

25 (vi) foreign currency exchange contracts and
26 forward and futures contracts on foreign

1 currencies;

2 (vii) stock and bond index securities and
3 futures contracts and other similar financial
4 securities and futures contracts on those
5 securities;

6 (viii) options for the purchase or sale of any
7 of the securities, currencies, contracts, or
8 financial instruments described in items (i) to
9 (vii), inclusive;

10 (ix) regulated futures contracts;

11 (x) commodities (not described in Section
12 1221(a)(1) of the Internal Revenue Code) or
13 futures, forwards, and options with respect to
14 such commodities, provided, however, that any item
15 of a physical commodity to which title is actually
16 acquired in the partnership's capacity as a dealer
17 in such commodity shall not be a qualifying
18 investment security;

19 (xi) derivatives; and

20 (xii) a partnership interest in another
21 partnership that is an investment partnership.

22 (12) Mathematical error. The term "mathematical error"
23 includes the following types of errors, omissions, or
24 defects in a return filed by a taxpayer which prevents
25 acceptance of the return as filed for processing:

26 (A) arithmetic errors or incorrect computations on

1 the return or supporting schedules;

2 (B) entries on the wrong lines;

3 (C) omission of required supporting forms or
4 schedules or the omission of the information in whole
5 or in part called for thereon; and

6 (D) an attempt to claim, exclude, deduct, or
7 improperly report, in a manner directly contrary to the
8 provisions of the Act and regulations thereunder any
9 item of income, exemption, deduction, or credit.

10 (13) Nonbusiness income. The term "nonbusiness income"
11 means all income other than business income or
12 compensation.

13 (14) Nonresident. The term "nonresident" means a
14 person who is not a resident.

15 (15) Paid, incurred and accrued. The terms "paid",
16 "incurred" and "accrued" shall be construed according to
17 the method of accounting upon the basis of which the
18 person's base income is computed under this Act.

19 (16) Partnership and partner. The term "partnership"
20 includes a syndicate, group, pool, joint venture or other
21 unincorporated organization, through or by means of which
22 any business, financial operation, or venture is carried
23 on, and which is not, within the meaning of this Act, a
24 trust or estate or a corporation; and the term "partner"
25 includes a member in such syndicate, group, pool, joint
26 venture or organization.

1 The term "partnership" includes any entity, including
2 a limited liability company formed under the Illinois
3 Limited Liability Company Act, classified as a partnership
4 for federal income tax purposes.

5 The term "partnership" does not include a syndicate,
6 group, pool, joint venture, or other unincorporated
7 organization established for the sole purpose of playing
8 the Illinois State Lottery.

9 (17) Part-year resident. The term "part-year resident"
10 means an individual who became a resident during the
11 taxable year or ceased to be a resident during the taxable
12 year. Under Section 1501(a)(20)(A)(i) residence commences
13 with presence in this State for other than a temporary or
14 transitory purpose and ceases with absence from this State
15 for other than a temporary or transitory purpose. Under
16 Section 1501(a)(20)(A)(ii) residence commences with the
17 establishment of domicile in this State and ceases with the
18 establishment of domicile in another State.

19 (18) Person. The term "person" shall be construed to
20 mean and include an individual, a trust, estate,
21 partnership, association, firm, company, corporation,
22 limited liability company, or fiduciary. For purposes of
23 Section 1301 and 1302 of this Act, a "person" means (i) an
24 individual, (ii) a corporation, (iii) an officer, agent, or
25 employee of a corporation, (iv) a member, agent or employee
26 of a partnership, or (v) a member, manager, employee,

1 officer, director, or agent of a limited liability company
2 who in such capacity commits an offense specified in
3 Section 1301 and 1302.

4 (18A) Records. The term "records" includes all data
5 maintained by the taxpayer, whether on paper, microfilm,
6 microfiche, or any type of machine-sensible data
7 compilation.

8 (19) Regulations. The term "regulations" includes
9 rules promulgated and forms prescribed by the Department.

10 (20) Resident. The term "resident" means:

11 (A) an individual (i) who is in this State for
12 other than a temporary or transitory purpose during the
13 taxable year; or (ii) who is domiciled in this State
14 but is absent from the State for a temporary or
15 transitory purpose during the taxable year;

16 (B) The estate of a decedent who at his or her
17 death was domiciled in this State;

18 (C) A trust created by a will of a decedent who at
19 his death was domiciled in this State; and

20 (D) An irrevocable trust, the grantor of which was
21 domiciled in this State at the time such trust became
22 irrevocable. For purpose of this subparagraph, a trust
23 shall be considered irrevocable to the extent that the
24 grantor is not treated as the owner thereof under
25 Sections 671 through 678 of the Internal Revenue Code.

26 (21) Sales. The term "sales" means all gross receipts

1 of the taxpayer not allocated under Sections 301, 302 and
2 303.

3 (22) State. The term "state" when applied to a
4 jurisdiction other than this State means any state of the
5 United States, the District of Columbia, the Commonwealth
6 of Puerto Rico, any Territory or Possession of the United
7 States, and any foreign country, or any political
8 subdivision of any of the foregoing. For purposes of the
9 foreign tax credit under Section 601, the term "state"
10 means any state of the United States, the District of
11 Columbia, the Commonwealth of Puerto Rico, and any
12 territory or possession of the United States, or any
13 political subdivision of any of the foregoing, effective
14 for tax years ending on or after December 31, 1989.

15 (23) Taxable year. The term "taxable year" means the
16 calendar year, or the fiscal year ending during such
17 calendar year, upon the basis of which the base income is
18 computed under this Act. "Taxable year" means, in the case
19 of a return made for a fractional part of a year under the
20 provisions of this Act, the period for which such return is
21 made.

22 (24) Taxpayer. The term "taxpayer" means any person
23 subject to the tax imposed by this Act.

24 (25) International banking facility. The term
25 international banking facility shall have the same meaning
26 as is set forth in the Illinois Banking Act or as is set

1 forth in the laws of the United States or regulations of
2 the Board of Governors of the Federal Reserve System.

3 (26) Income Tax Return Preparer.

4 (A) The term "income tax return preparer" means any
5 person who prepares for compensation, or who employs
6 one or more persons to prepare for compensation, any
7 return of tax imposed by this Act or any claim for
8 refund of tax imposed by this Act. The preparation of a
9 substantial portion of a return or claim for refund
10 shall be treated as the preparation of that return or
11 claim for refund.

12 (B) A person is not an income tax return preparer
13 if all he or she does is

14 (i) furnish typing, reproducing, or other
15 mechanical assistance;

16 (ii) prepare returns or claims for refunds for
17 the employer by whom he or she is regularly and
18 continuously employed;

19 (iii) prepare as a fiduciary returns or claims
20 for refunds for any person; or

21 (iv) prepare claims for refunds for a taxpayer
22 in response to any notice of deficiency issued to
23 that taxpayer or in response to any waiver of
24 restriction after the commencement of an audit of
25 that taxpayer or of another taxpayer if a
26 determination in the audit of the other taxpayer

1 directly or indirectly affects the tax liability
2 of the taxpayer whose claims he or she is
3 preparing.

4 (27) Unitary business group.

5 (A) The term "unitary business group" means a group
6 of persons related through common ownership whose
7 business activities are integrated with, dependent
8 upon and contribute to each other. The group will not
9 include those members whose business activity outside
10 the United States is 80% or more of any such member's
11 total business activity; for purposes of this
12 paragraph and clause (a)(3)(B)(ii) of Section 304,
13 business activity within the United States shall be
14 measured by means of the factors ordinarily applicable
15 under subsections (a), (b), (c), (d), or (h) of Section
16 304 except that, in the case of members ordinarily
17 required to apportion business income by means of the 3
18 factor formula of property, payroll and sales
19 specified in subsection (a) of Section 304, including
20 the formula as weighted in subsection (h) of Section
21 304, such members shall not use the sales factor in the
22 computation and the results of the property and payroll
23 factor computations of subsection (a) of Section 304
24 shall be divided by 2 (by one if either the property or
25 payroll factor has a denominator of zero). The
26 computation required by the preceding sentence shall,

1 in each case, involve the division of the member's
2 property, payroll, or revenue miles in the United
3 States, insurance premiums on property or risk in the
4 United States, or financial organization business
5 income from sources within the United States, as the
6 case may be, by the respective worldwide figures for
7 such items. Common ownership in the case of
8 corporations is the direct or indirect control or
9 ownership of more than 50% of the outstanding voting
10 stock of the persons carrying on unitary business
11 activity. Unitary business activity can ordinarily be
12 illustrated where the activities of the members are:
13 (1) in the same general line (such as manufacturing,
14 wholesaling, retailing of tangible personal property,
15 insurance, transportation or finance); or (2) are
16 steps in a vertically structured enterprise or process
17 (such as the steps involved in the production of
18 natural resources, which might include exploration,
19 mining, refining, and marketing); and, in either
20 instance, the members are functionally integrated
21 through the exercise of strong centralized management
22 (where, for example, authority over such matters as
23 purchasing, financing, tax compliance, product line,
24 personnel, marketing and capital investment is not
25 left to each member).

26 (B) In no event, shall any unitary business group

1 include members which are ordinarily required to
2 apportion business income under different subsections
3 of Section 304 except that for tax years ending on or
4 after December 31, 1987 this prohibition shall not
5 apply to a holding company that would otherwise be a
6 member of a unitary business group with taxpayers that
7 apportion business income under any of subsections
8 (b), (c), (c-1), or (d) of Section 304. If a unitary
9 business group would, but for the preceding sentence,
10 include members that are ordinarily required to
11 apportion business income under different subsections
12 of Section 304, then for each subsection of Section 304
13 for which there are two or more members, there shall be
14 a separate unitary business group composed of such
15 members. For purposes of the preceding two sentences, a
16 member is "ordinarily required to apportion business
17 income" under a particular subsection of Section 304 if
18 it would be required to use the apportionment method
19 prescribed by such subsection except for the fact that
20 it derives business income solely from Illinois. As
21 used in this paragraph, the phrase "United States"
22 means only the 50 states and the District of Columbia,
23 but does not include any territory or possession of the
24 United States or any area over which the United States
25 has asserted jurisdiction or claimed exclusive rights
26 with respect to the exploration for or exploitation of

1 natural resources.

2 (C) Holding companies.

3 (i) For purposes of this subparagraph, a
4 "holding company" is a corporation (other than a
5 corporation that is a financial organization under
6 paragraph (8) of this subsection (a) of Section
7 1501 because it is a bank holding company under the
8 provisions of the Bank Holding Company Act of 1956
9 (12 U.S.C. 1841, et seq.) or because it is owned by
10 a bank or a bank holding company) that owns a
11 controlling interest in one or more other
12 taxpayers ("controlled taxpayers"); that, during
13 the period that includes the taxable year and the 2
14 immediately preceding taxable years or, if the
15 corporation was formed during the current or
16 immediately preceding taxable year, the taxable
17 years in which the corporation has been in
18 existence, derived substantially all its gross
19 income from dividends, interest, rents, royalties,
20 fees or other charges received from controlled
21 taxpayers for the provision of services, and gains
22 on the sale or other disposition of interests in
23 controlled taxpayers or in property leased or
24 licensed to controlled taxpayers or used by the
25 taxpayer in providing services to controlled
26 taxpayers; and that incurs no substantial expenses

1 other than expenses (including interest and other
2 costs of borrowing) incurred in connection with
3 the acquisition and holding of interests in
4 controlled taxpayers and in the provision of
5 services to controlled taxpayers or in the leasing
6 or licensing of property to controlled taxpayers.

7 (ii) The income of a holding company which is a
8 member of more than one unitary business group
9 shall be included in each unitary business group of
10 which it is a member on a pro rata basis, by
11 including in each unitary business group that
12 portion of the base income of the holding company
13 that bears the same proportion to the total base
14 income of the holding company as the gross receipts
15 of the unitary business group bears to the combined
16 gross receipts of all unitary business groups (in
17 both cases without regard to the holding company)
18 or on any other reasonable basis, consistently
19 applied.

20 (iii) A holding company shall apportion its
21 business income under the subsection of Section
22 304 used by the other members of its unitary
23 business group. The apportionment factors of a
24 holding company which would be a member of more
25 than one unitary business group shall be included
26 with the apportionment factors of each unitary

1 business group of which it is a member on a pro
2 rata basis using the same method used in clause
3 (ii).

4 (iv) The provisions of this subparagraph (C)
5 are intended to clarify existing law.

6 (D) If including the base income and factors of a
7 holding company in more than one unitary business group
8 under subparagraph (C) does not fairly reflect the
9 degree of integration between the holding company and
10 one or more of the unitary business groups, the
11 dependence of the holding company and one or more of
12 the unitary business groups upon each other, or the
13 contributions between the holding company and one or
14 more of the unitary business groups, the holding
15 company may petition the Director, under the
16 procedures provided under Section 304(f), for
17 permission to include all base income and factors of
18 the holding company only with members of a unitary
19 business group apportioning their business income
20 under one subsection of subsections (a), (b), (c), or
21 (d) of Section 304. If the petition is granted, the
22 holding company shall be included in a unitary business
23 group only with persons apportioning their business
24 income under the selected subsection of Section 304
25 until the Director grants a petition of the holding
26 company either to be included in more than one unitary

1 business group under subparagraph (C) or to include its
2 base income and factors only with members of a unitary
3 business group apportioning their business income
4 under a different subsection of Section 304.

5 (E) If the unitary business group members'
6 accounting periods differ, the common parent's
7 accounting period or, if there is no common parent, the
8 accounting period of the member that is expected to
9 have, on a recurring basis, the greatest Illinois
10 income tax liability must be used to determine whether
11 to use the apportionment method provided in subsection
12 (a) or subsection (h) of Section 304. The prohibition
13 against membership in a unitary business group for
14 taxpayers ordinarily required to apportion income
15 under different subsections of Section 304 does not
16 apply to taxpayers required to apportion income under
17 subsection (a) and subsection (h) of Section 304. The
18 provisions of this amendatory Act of 1998 apply to tax
19 years ending on or after December 31, 1998.

20 (28) Subchapter S corporation. The term "Subchapter S
21 corporation" means a corporation for which there is in
22 effect an election under Section 1362 of the Internal
23 Revenue Code, or for which there is a federal election to
24 opt out of the provisions of the Subchapter S Revision Act
25 of 1982 and have applied instead the prior federal
26 Subchapter S rules as in effect on July 1, 1982.

1 (30) Foreign person. The term "foreign person" means
2 any person who is a nonresident alien individual and any
3 nonindividual entity, regardless of where created or
4 organized, whose business activity outside the United
5 States is 80% or more of the entity's total business
6 activity.

7 (b) Other definitions.

8 (1) Words denoting number, gender, and so forth, when
9 used in this Act, where not otherwise distinctly expressed
10 or manifestly incompatible with the intent thereof:

11 (A) Words importing the singular include and apply
12 to several persons, parties or things;

13 (B) Words importing the plural include the
14 singular; and

15 (C) Words importing the masculine gender include
16 the feminine as well.

17 (2) "Company" or "association" as including successors
18 and assigns. The word "company" or "association", when used
19 in reference to a corporation, shall be deemed to embrace
20 the words "successors and assigns of such company or
21 association", and in like manner as if these last-named
22 words, or words of similar import, were expressed.

23 (3) Other terms. Any term used in any Section of this
24 Act with respect to the application of, or in connection
25 with, the provisions of any other Section of this Act shall

1 have the same meaning as in such other Section.

2 (Source: P.A. 96-641, eff. 8-24-09; 97-507, eff. 8-23-11.)

3 Section 15-15. The Economic Development for a Growing
4 Economy Tax Credit Act is amended by changing Section 5-15 as
5 follows:

6 (35 ILCS 10/5-15)

7 Sec. 5-15. Tax Credit Awards. Subject to the conditions set
8 forth in this Act, a Taxpayer is entitled to a Credit against
9 or, as described in subsection (g) of this Section, a payment
10 towards taxes imposed pursuant to subsections (a) and (b) of
11 Section 201 of the Illinois Income Tax Act that may be imposed
12 on the Taxpayer for a taxable year beginning on or after
13 January 1, 1999, if the Taxpayer is awarded a Credit by the
14 Department under this Act for that taxable year.

15 (a) The Department shall make Credit awards under this Act
16 to foster job creation and retention in Illinois.

17 (b) A person that proposes a project to create new jobs in
18 Illinois must enter into an Agreement with the Department for
19 the Credit under this Act.

20 (c) The Credit shall be claimed for the taxable years
21 specified in the Agreement.

22 (d) The Credit shall not exceed the Incremental Income Tax
23 attributable to the project that is the subject of the
24 Agreement.

1 (e) Nothing herein shall prohibit a Tax Credit Award to an
2 Applicant that uses a PEO if all other award criteria are
3 satisfied.

4 (f) In lieu of the Credit allowed under this Act against
5 the taxes imposed pursuant to subsections (a) and (b) of
6 Section 201 of the Illinois Income Tax Act for any taxable year
7 ending on or after December 31, 2009, the Taxpayer may elect to
8 claim the Credit against its obligation to pay over withholding
9 under Section 704A of the Illinois Income Tax Act.

10 (1) The election under this subsection (f) may be made
11 only by a Taxpayer that (i) is primarily engaged in one of
12 the following business activities: water purification and
13 treatment, motor vehicle metal stamping, automobile
14 manufacturing, automobile and light duty motor vehicle
15 manufacturing, motor vehicle manufacturing, light truck
16 and utility vehicle manufacturing, heavy duty truck
17 manufacturing, motor vehicle body manufacturing, cable
18 television infrastructure design or manufacturing, or
19 wireless telecommunication or computing terminal device
20 design or manufacturing for use on public networks and (ii)
21 meets the following criteria:

22 (A) the Taxpayer (i) had an Illinois net loss or an
23 Illinois net loss deduction under Section 207 of the
24 Illinois Income Tax Act for the taxable year in which
25 the Credit is awarded, (ii) employed a minimum of 1,000
26 full-time employees in this State during the taxable

1 year in which the Credit is awarded, (iii) has an
2 Agreement under this Act on December 14, 2009 (the
3 effective date of Public Act 96-834), and (iv) is in
4 compliance with all provisions of that Agreement;

5 (B) the Taxpayer (i) had an Illinois net loss or an
6 Illinois net loss deduction under Section 207 of the
7 Illinois Income Tax Act for the taxable year in which
8 the Credit is awarded, (ii) employed a minimum of 1,000
9 full-time employees in this State during the taxable
10 year in which the Credit is awarded, and (iii) has
11 applied for an Agreement within 365 days after December
12 14, 2009 (the effective date of Public Act 96-834);

13 (C) the Taxpayer (i) had an Illinois net operating
14 loss carryforward under Section 207 of the Illinois
15 Income Tax Act in a taxable year ending during calendar
16 year 2008, (ii) has applied for an Agreement within 150
17 days after the effective date of this amendatory Act of
18 the 96th General Assembly, (iii) creates at least 400
19 new jobs in Illinois, (iv) retains at least 2,000 jobs
20 in Illinois that would have been at risk of relocation
21 out of Illinois over a 10-year period, and (v) makes a
22 capital investment of at least \$75,000,000;

23 (D) the Taxpayer (i) had an Illinois net operating
24 loss carryforward under Section 207 of the Illinois
25 Income Tax Act in a taxable year ending during calendar
26 year 2009, (ii) has applied for an Agreement within 150

1 days after the effective date of this amendatory Act of
2 the 96th General Assembly, (iii) creates at least 150
3 new jobs, (iv) retains at least 1,000 jobs in Illinois
4 that would have been at risk of relocation out of
5 Illinois over a 10-year period, and (v) makes a capital
6 investment of at least \$57,000,000; or

7 (E) the Taxpayer (i) employed at least 2,500
8 full-time employees in the State during the year in
9 which the Credit is awarded, (ii) commits to make at
10 least \$500,000,000 in combined capital improvements
11 and project costs under the Agreement, (iii) applies
12 for an Agreement between January 1, 2011 and June 30,
13 2011, (iv) executes an Agreement for the Credit during
14 calendar year 2011, and (v) was incorporated no more
15 than 5 years before the filing of an application for an
16 Agreement.

17 (1.5) The election under this subsection (f) may also
18 be made by a Taxpayer for any Credit awarded pursuant to an
19 agreement that was executed between January 1, 2011 and
20 June 30, 2011, if the Taxpayer (i) is primarily engaged in
21 the manufacture of inner tubes or tires, or both, from
22 natural and synthetic rubber, (ii) employs a minimum of
23 2,400 full-time employees in Illinois at the time of
24 application, (iii) creates at least 350 full-time jobs and
25 retains at least 250 full-time jobs in Illinois that would
26 have been at risk of being created or retained outside of

1 Illinois, and (iv) makes a capital investment of at least
2 \$200,000,000 at the project location.

3 (1.6) The election under this subsection (f) may also
4 be made by a Taxpayer for any Credit awarded pursuant to an
5 agreement that was executed within 150 days after the
6 effective date of this amendatory Act of the 97th General
7 Assembly, if the Taxpayer (i) is primarily engaged in the
8 operation of a discount department store, (ii) maintains
9 its corporate headquarters in Illinois, (iii) employs a
10 minimum of 4,250 full time employees at its corporate
11 headquarters in Illinois at the time of application, (iv)
12 retains at least 4,250 full time jobs in Illinois that
13 would have been at risk of being relocated outside of
14 Illinois, (v) had a minimum of \$40,000,000,000 in total
15 revenue in 2010, and (vi) makes a capital investment of at
16 least \$300,000,000 at the project location.

17 (2) An election under this subsection shall allow the
18 credit to be taken against payments otherwise due under
19 Section 704A of the Illinois Income Tax Act during the
20 first calendar year beginning after the end of the taxable
21 year in which the credit is awarded under this Act.

22 (3) The election shall be made in the form and manner
23 required by the Illinois Department of Revenue and, once
24 made, shall be irrevocable.

25 (4) If a Taxpayer who meets the requirements of
26 subparagraph (A) of paragraph (1) of this subsection (f)

1 elects to claim the Credit against its withholdings as
2 provided in this subsection (f), then, on and after the
3 date of the election, the terms of the Agreement between
4 the Taxpayer and the Department may not be further amended
5 during the term of the Agreement.

6 (g) A pass-through entity that has been awarded a credit
7 under this Act, its shareholders, or its partners may treat
8 some or all of the credit awarded pursuant to this Act as a tax
9 payment for purposes of the Illinois Income Tax Act. The term
10 "tax payment" means a payment as described in Article 6 or
11 Article 8 of the Illinois Income Tax Act or a composite payment
12 made by a pass-through entity on behalf of any of its
13 shareholders or partners to satisfy such shareholders' or
14 partners' taxes imposed pursuant to subsections (a) and (b) of
15 Section 201 of the Illinois Income Tax Act. In no event shall
16 the amount of the award credited pursuant to this Act exceed
17 the Illinois income tax liability of the pass-through entity or
18 its shareholders or partners for the taxable year.

19 (Source: P.A. 96-834, eff. 12-14-09; 96-836, eff. 12-16-09;
20 96-905, eff. 6-4-10; 96-1000, eff. 7-2-10; 96-1534, eff.
21 3-4-11; 97-2, eff. 5-6-11.)

22 Section 15-20. The Use Tax Act is amended by changing
23 Sections 3-10 and 3-90 as follows:

24 (35 ILCS 105/3-10)

1 Sec. 3-10. Rate of tax. Unless otherwise provided in this
2 Section, the tax imposed by this Act is at the rate of 6.25% of
3 either the selling price or the fair market value, if any, of
4 the tangible personal property. In all cases where property
5 functionally used or consumed is the same as the property that
6 was purchased at retail, then the tax is imposed on the selling
7 price of the property. In all cases where property functionally
8 used or consumed is a by-product or waste product that has been
9 refined, manufactured, or produced from property purchased at
10 retail, then the tax is imposed on the lower of the fair market
11 value, if any, of the specific property so used in this State
12 or on the selling price of the property purchased at retail.
13 For purposes of this Section "fair market value" means the
14 price at which property would change hands between a willing
15 buyer and a willing seller, neither being under any compulsion
16 to buy or sell and both having reasonable knowledge of the
17 relevant facts. The fair market value shall be established by
18 Illinois sales by the taxpayer of the same property as that
19 functionally used or consumed, or if there are no such sales by
20 the taxpayer, then comparable sales or purchases of property of
21 like kind and character in Illinois.

22 Beginning on July 1, 2000 and through December 31, 2000,
23 with respect to motor fuel, as defined in Section 1.1 of the
24 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
25 the Use Tax Act, the tax is imposed at the rate of 1.25%.

26 Beginning on August 6, 2010 through August 15, 2010, with

1 respect to sales tax holiday items as defined in Section 3-6 of
2 this Act, the tax is imposed at the rate of 1.25%.

3 With respect to gasohol, the tax imposed by this Act
4 applies to (i) 70% of the proceeds of sales made on or after
5 January 1, 1990, and before July 1, 2003, (ii) 80% of the
6 proceeds of sales made on or after July 1, 2003 and on or
7 before December 31, 2018 ~~2013~~, and (iii) 100% of the proceeds
8 of sales made thereafter. If, at any time, however, the tax
9 under this Act on sales of gasohol is imposed at the rate of
10 1.25%, then the tax imposed by this Act applies to 100% of the
11 proceeds of sales of gasohol made during that time.

12 With respect to majority blended ethanol fuel, the tax
13 imposed by this Act does not apply to the proceeds of sales
14 made on or after July 1, 2003 and on or before December 31,
15 2018 ~~2013~~ but applies to 100% of the proceeds of sales made
16 thereafter.

17 With respect to biodiesel blends with no less than 1% and
18 no more than 10% biodiesel, the tax imposed by this Act applies
19 to (i) 80% of the proceeds of sales made on or after July 1,
20 2003 and on or before December 31, 2018 ~~2013~~ and (ii) 100% of
21 the proceeds of sales made thereafter. If, at any time,
22 however, the tax under this Act on sales of biodiesel blends
23 with no less than 1% and no more than 10% biodiesel is imposed
24 at the rate of 1.25%, then the tax imposed by this Act applies
25 to 100% of the proceeds of sales of biodiesel blends with no
26 less than 1% and no more than 10% biodiesel made during that

1 time.

2 With respect to 100% biodiesel and biodiesel blends with
3 more than 10% but no more than 99% biodiesel, the tax imposed
4 by this Act does not apply to the proceeds of sales made on or
5 after July 1, 2003 and on or before December 31, 2018 ~~2013~~ but
6 applies to 100% of the proceeds of sales made thereafter.

7 With respect to food for human consumption that is to be
8 consumed off the premises where it is sold (other than
9 alcoholic beverages, soft drinks, and food that has been
10 prepared for immediate consumption) and prescription and
11 nonprescription medicines, drugs, medical appliances,
12 modifications to a motor vehicle for the purpose of rendering
13 it usable by a disabled person, and insulin, urine testing
14 materials, syringes, and needles used by diabetics, for human
15 use, the tax is imposed at the rate of 1%. For the purposes of
16 this Section, until September 1, 2009: the term "soft drinks"
17 means any complete, finished, ready-to-use, non-alcoholic
18 drink, whether carbonated or not, including but not limited to
19 soda water, cola, fruit juice, vegetable juice, carbonated
20 water, and all other preparations commonly known as soft drinks
21 of whatever kind or description that are contained in any
22 closed or sealed bottle, can, carton, or container, regardless
23 of size; but "soft drinks" does not include coffee, tea,
24 non-carbonated water, infant formula, milk or milk products as
25 defined in the Grade A Pasteurized Milk and Milk Products Act,
26 or drinks containing 50% or more natural fruit or vegetable

1 juice.

2 Notwithstanding any other provisions of this Act,
3 beginning September 1, 2009, "soft drinks" means non-alcoholic
4 beverages that contain natural or artificial sweeteners. "Soft
5 drinks" do not include beverages that contain milk or milk
6 products, soy, rice or similar milk substitutes, or greater
7 than 50% of vegetable or fruit juice by volume.

8 Until August 1, 2009, and notwithstanding any other
9 provisions of this Act, "food for human consumption that is to
10 be consumed off the premises where it is sold" includes all
11 food sold through a vending machine, except soft drinks and
12 food products that are dispensed hot from a vending machine,
13 regardless of the location of the vending machine. Beginning
14 August 1, 2009, and notwithstanding any other provisions of
15 this Act, "food for human consumption that is to be consumed
16 off the premises where it is sold" includes all food sold
17 through a vending machine, except soft drinks, candy, and food
18 products that are dispensed hot from a vending machine,
19 regardless of the location of the vending machine.

20 Notwithstanding any other provisions of this Act,
21 beginning September 1, 2009, "food for human consumption that
22 is to be consumed off the premises where it is sold" does not
23 include candy. For purposes of this Section, "candy" means a
24 preparation of sugar, honey, or other natural or artificial
25 sweeteners in combination with chocolate, fruits, nuts or other
26 ingredients or flavorings in the form of bars, drops, or

1 pieces. "Candy" does not include any preparation that contains
2 flour or requires refrigeration.

3 Notwithstanding any other provisions of this Act,
4 beginning September 1, 2009, "nonprescription medicines and
5 drugs" does not include grooming and hygiene products. For
6 purposes of this Section, "grooming and hygiene products"
7 includes, but is not limited to, soaps and cleaning solutions,
8 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
9 lotions and screens, unless those products are available by
10 prescription only, regardless of whether the products meet the
11 definition of "over-the-counter-drugs". For the purposes of
12 this paragraph, "over-the-counter-drug" means a drug for human
13 use that contains a label that identifies the product as a drug
14 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
15 label includes:

16 (A) A "Drug Facts" panel; or

17 (B) A statement of the "active ingredient(s)" with a
18 list of those ingredients contained in the compound,
19 substance or preparation.

20 If the property that is purchased at retail from a retailer
21 is acquired outside Illinois and used outside Illinois before
22 being brought to Illinois for use here and is taxable under
23 this Act, the "selling price" on which the tax is computed
24 shall be reduced by an amount that represents a reasonable
25 allowance for depreciation for the period of prior out-of-state
26 use.

1 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
2 eff. 7-13-09; 96-1000, eff. 7-2-10; 96-1012, eff. 7-7-10.)

3 (35 ILCS 105/3-90)

4 Sec. 3-90. Sunset of exemptions, credits, and deductions.

5 (a) The application of every exemption, credit, and
6 deduction against tax imposed by this Act that becomes law
7 after the effective date of this amendatory Act of 1994 shall
8 be limited by a reasonable and appropriate sunset date. A
9 taxpayer is not entitled to take the exemption, credit, or
10 deduction beginning on the sunset date and thereafter. Except
11 as provided in subsection (b) of this Section, if ~~if~~ a
12 reasonable and appropriate sunset date is not specified in the
13 Public Act that creates the exemption, credit, or deduction, a
14 taxpayer shall not be entitled to take the exemption, credit,
15 or deduction beginning 5 years after the effective date of the
16 Public Act creating the exemption, credit, or deduction and
17 thereafter.

18 (b) Notwithstanding the provisions of subsection (a) of
19 this Section, the sunset date of any exemption, credit, or
20 deduction that is scheduled to expire in 2011, 2012, or 2013 by
21 operation of this Section shall be extended by 5 years.

22 (Source: P.A. 88-660, eff. 9-16-94; 89-235, eff. 8-4-95.)

23 Section 15-25. The Service Use Tax Act is amended by
24 changing Sections 3-10 and 3-75 as follows:

1 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

2 Sec. 3-10. Rate of tax. Unless otherwise provided in this
3 Section, the tax imposed by this Act is at the rate of 6.25% of
4 the selling price of tangible personal property transferred as
5 an incident to the sale of service, but, for the purpose of
6 computing this tax, in no event shall the selling price be less
7 than the cost price of the property to the serviceman.

8 Beginning on July 1, 2000 and through December 31, 2000,
9 with respect to motor fuel, as defined in Section 1.1 of the
10 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
11 the Use Tax Act, the tax is imposed at the rate of 1.25%.

12 With respect to gasohol, as defined in the Use Tax Act, the
13 tax imposed by this Act applies to (i) 70% of the selling price
14 of property transferred as an incident to the sale of service
15 on or after January 1, 1990, and before July 1, 2003, (ii) 80%
16 of the selling price of property transferred as an incident to
17 the sale of service on or after July 1, 2003 and on or before
18 December 31, 2018 ~~2013~~, and (iii) 100% of the selling price
19 thereafter. If, at any time, however, the tax under this Act on
20 sales of gasohol, as defined in the Use Tax Act, is imposed at
21 the rate of 1.25%, then the tax imposed by this Act applies to
22 100% of the proceeds of sales of gasohol made during that time.

23 With respect to majority blended ethanol fuel, as defined
24 in the Use Tax Act, the tax imposed by this Act does not apply
25 to the selling price of property transferred as an incident to

1 the sale of service on or after July 1, 2003 and on or before
2 December 31, 2018 ~~2013~~ but applies to 100% of the selling price
3 thereafter.

4 With respect to biodiesel blends, as defined in the Use Tax
5 Act, with no less than 1% and no more than 10% biodiesel, the
6 tax imposed by this Act applies to (i) 80% of the selling price
7 of property transferred as an incident to the sale of service
8 on or after July 1, 2003 and on or before December 31, 2018
9 ~~2013~~ and (ii) 100% of the proceeds of the selling price
10 thereafter. If, at any time, however, the tax under this Act on
11 sales of biodiesel blends, as defined in the Use Tax Act, with
12 no less than 1% and no more than 10% biodiesel is imposed at
13 the rate of 1.25%, then the tax imposed by this Act applies to
14 100% of the proceeds of sales of biodiesel blends with no less
15 than 1% and no more than 10% biodiesel made during that time.

16 With respect to 100% biodiesel, as defined in the Use Tax
17 Act, and biodiesel blends, as defined in the Use Tax Act, with
18 more than 10% but no more than 99% biodiesel, the tax imposed
19 by this Act does not apply to the proceeds of the selling price
20 of property transferred as an incident to the sale of service
21 on or after July 1, 2003 and on or before December 31, 2018
22 ~~2013~~ but applies to 100% of the selling price thereafter.

23 At the election of any registered serviceman made for each
24 fiscal year, sales of service in which the aggregate annual
25 cost price of tangible personal property transferred as an
26 incident to the sales of service is less than 35%, or 75% in

1 the case of servicemen transferring prescription drugs or
2 servicemen engaged in graphic arts production, of the aggregate
3 annual total gross receipts from all sales of service, the tax
4 imposed by this Act shall be based on the serviceman's cost
5 price of the tangible personal property transferred as an
6 incident to the sale of those services.

7 The tax shall be imposed at the rate of 1% on food prepared
8 for immediate consumption and transferred incident to a sale of
9 service subject to this Act or the Service Occupation Tax Act
10 by an entity licensed under the Hospital Licensing Act, the
11 Nursing Home Care Act, the ID/DD Community Care Act, the
12 Specialized Mental Health Rehabilitation Act, or the Child Care
13 Act of 1969. The tax shall also be imposed at the rate of 1% on
14 food for human consumption that is to be consumed off the
15 premises where it is sold (other than alcoholic beverages, soft
16 drinks, and food that has been prepared for immediate
17 consumption and is not otherwise included in this paragraph)
18 and prescription and nonprescription medicines, drugs, medical
19 appliances, modifications to a motor vehicle for the purpose of
20 rendering it usable by a disabled person, and insulin, urine
21 testing materials, syringes, and needles used by diabetics, for
22 human use. For the purposes of this Section, until September 1,
23 2009: the term "soft drinks" means any complete, finished,
24 ready-to-use, non-alcoholic drink, whether carbonated or not,
25 including but not limited to soda water, cola, fruit juice,
26 vegetable juice, carbonated water, and all other preparations

1 commonly known as soft drinks of whatever kind or description
2 that are contained in any closed or sealed bottle, can, carton,
3 or container, regardless of size; but "soft drinks" does not
4 include coffee, tea, non-carbonated water, infant formula,
5 milk or milk products as defined in the Grade A Pasteurized
6 Milk and Milk Products Act, or drinks containing 50% or more
7 natural fruit or vegetable juice.

8 Notwithstanding any other provisions of this Act,
9 beginning September 1, 2009, "soft drinks" means non-alcoholic
10 beverages that contain natural or artificial sweeteners. "Soft
11 drinks" do not include beverages that contain milk or milk
12 products, soy, rice or similar milk substitutes, or greater
13 than 50% of vegetable or fruit juice by volume.

14 Until August 1, 2009, and notwithstanding any other
15 provisions of this Act, "food for human consumption that is to
16 be consumed off the premises where it is sold" includes all
17 food sold through a vending machine, except soft drinks and
18 food products that are dispensed hot from a vending machine,
19 regardless of the location of the vending machine. Beginning
20 August 1, 2009, and notwithstanding any other provisions of
21 this Act, "food for human consumption that is to be consumed
22 off the premises where it is sold" includes all food sold
23 through a vending machine, except soft drinks, candy, and food
24 products that are dispensed hot from a vending machine,
25 regardless of the location of the vending machine.

26 Notwithstanding any other provisions of this Act,

1 beginning September 1, 2009, "food for human consumption that
2 is to be consumed off the premises where it is sold" does not
3 include candy. For purposes of this Section, "candy" means a
4 preparation of sugar, honey, or other natural or artificial
5 sweeteners in combination with chocolate, fruits, nuts or other
6 ingredients or flavorings in the form of bars, drops, or
7 pieces. "Candy" does not include any preparation that contains
8 flour or requires refrigeration.

9 Notwithstanding any other provisions of this Act,
10 beginning September 1, 2009, "nonprescription medicines and
11 drugs" does not include grooming and hygiene products. For
12 purposes of this Section, "grooming and hygiene products"
13 includes, but is not limited to, soaps and cleaning solutions,
14 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
15 lotions and screens, unless those products are available by
16 prescription only, regardless of whether the products meet the
17 definition of "over-the-counter-drugs". For the purposes of
18 this paragraph, "over-the-counter-drug" means a drug for human
19 use that contains a label that identifies the product as a drug
20 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
21 label includes:

22 (A) A "Drug Facts" panel; or

23 (B) A statement of the "active ingredient(s)" with a
24 list of those ingredients contained in the compound,
25 substance or preparation.

26 If the property that is acquired from a serviceman is

1 acquired outside Illinois and used outside Illinois before
2 being brought to Illinois for use here and is taxable under
3 this Act, the "selling price" on which the tax is computed
4 shall be reduced by an amount that represents a reasonable
5 allowance for depreciation for the period of prior out-of-state
6 use.

7 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
8 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10; 97-38,
9 eff. 6-28-11; 97-227, eff. 1-1-12; revised 9-12-11.)

10 (35 ILCS 110/3-75)

11 Sec. 3-75. Sunset of exemptions, credits, and deductions.

12 (a) The application of every exemption, credit, and
13 deduction against tax imposed by this Act that becomes law
14 after the effective date of this amendatory Act of 1994 shall
15 be limited by a reasonable and appropriate sunset date. A
16 taxpayer is not entitled to take the exemption, credit, or
17 deduction beginning on the sunset date and thereafter. Except
18 as provided in subsection (b) of this Section, if ~~if~~ a
19 reasonable and appropriate sunset date is not specified in the
20 Public Act that creates the exemption, credit, or deduction, a
21 taxpayer shall not be entitled to take the exemption, credit,
22 or deduction beginning 5 years after the effective date of the
23 Public Act creating the exemption, credit, or deduction and
24 thereafter.

25 (b) Notwithstanding the provisions of subsection (a) of

1 this Section, the sunset date of any exemption, credit, or
2 deduction that is scheduled to expire in 2011, 2012, or 2013 by
3 operation of this Section shall be extended by 5 years.

4 (Source: P.A. 88-660, eff. 9-16-94; 89-235, eff. 8-4-95.)

5 Section 15-30. The Service Occupation Tax Act is amended by
6 changing Sections 3-10 and 3-55 as follows:

7 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

8 Sec. 3-10. Rate of tax. Unless otherwise provided in this
9 Section, the tax imposed by this Act is at the rate of 6.25% of
10 the "selling price", as defined in Section 2 of the Service Use
11 Tax Act, of the tangible personal property. For the purpose of
12 computing this tax, in no event shall the "selling price" be
13 less than the cost price to the serviceman of the tangible
14 personal property transferred. The selling price of each item
15 of tangible personal property transferred as an incident of a
16 sale of service may be shown as a distinct and separate item on
17 the serviceman's billing to the service customer. If the
18 selling price is not so shown, the selling price of the
19 tangible personal property is deemed to be 50% of the
20 serviceman's entire billing to the service customer. When,
21 however, a serviceman contracts to design, develop, and produce
22 special order machinery or equipment, the tax imposed by this
23 Act shall be based on the serviceman's cost price of the
24 tangible personal property transferred incident to the

1 completion of the contract.

2 Beginning on July 1, 2000 and through December 31, 2000,
3 with respect to motor fuel, as defined in Section 1.1 of the
4 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
5 the Use Tax Act, the tax is imposed at the rate of 1.25%.

6 With respect to gasohol, as defined in the Use Tax Act, the
7 tax imposed by this Act shall apply to (i) 70% of the cost
8 price of property transferred as an incident to the sale of
9 service on or after January 1, 1990, and before July 1, 2003,
10 (ii) 80% of the selling price of property transferred as an
11 incident to the sale of service on or after July 1, 2003 and on
12 or before December 31, 2018 ~~2013~~, and (iii) 100% of the cost
13 price thereafter. If, at any time, however, the tax under this
14 Act on sales of gasohol, as defined in the Use Tax Act, is
15 imposed at the rate of 1.25%, then the tax imposed by this Act
16 applies to 100% of the proceeds of sales of gasohol made during
17 that time.

18 With respect to majority blended ethanol fuel, as defined
19 in the Use Tax Act, the tax imposed by this Act does not apply
20 to the selling price of property transferred as an incident to
21 the sale of service on or after July 1, 2003 and on or before
22 December 31, 2018 ~~2013~~ but applies to 100% of the selling price
23 thereafter.

24 With respect to biodiesel blends, as defined in the Use Tax
25 Act, with no less than 1% and no more than 10% biodiesel, the
26 tax imposed by this Act applies to (i) 80% of the selling price

1 of property transferred as an incident to the sale of service
2 on or after July 1, 2003 and on or before December 31, 2018
3 ~~2013~~ and (ii) 100% of the proceeds of the selling price
4 thereafter. If, at any time, however, the tax under this Act on
5 sales of biodiesel blends, as defined in the Use Tax Act, with
6 no less than 1% and no more than 10% biodiesel is imposed at
7 the rate of 1.25%, then the tax imposed by this Act applies to
8 100% of the proceeds of sales of biodiesel blends with no less
9 than 1% and no more than 10% biodiesel made during that time.

10 With respect to 100% biodiesel, as defined in the Use Tax
11 Act, and biodiesel blends, as defined in the Use Tax Act, with
12 more than 10% but no more than 99% biodiesel material, the tax
13 imposed by this Act does not apply to the proceeds of the
14 selling price of property transferred as an incident to the
15 sale of service on or after July 1, 2003 and on or before
16 December 31, 2018 ~~2013~~ but applies to 100% of the selling price
17 thereafter.

18 At the election of any registered serviceman made for each
19 fiscal year, sales of service in which the aggregate annual
20 cost price of tangible personal property transferred as an
21 incident to the sales of service is less than 35%, or 75% in
22 the case of servicemen transferring prescription drugs or
23 servicemen engaged in graphic arts production, of the aggregate
24 annual total gross receipts from all sales of service, the tax
25 imposed by this Act shall be based on the serviceman's cost
26 price of the tangible personal property transferred incident to

1 the sale of those services.

2 The tax shall be imposed at the rate of 1% on food prepared
3 for immediate consumption and transferred incident to a sale of
4 service subject to this Act or the Service Occupation Tax Act
5 by an entity licensed under the Hospital Licensing Act, the
6 Nursing Home Care Act, the ID/DD Community Care Act, the
7 Specialized Mental Health Rehabilitation Act, or the Child Care
8 Act of 1969. The tax shall also be imposed at the rate of 1% on
9 food for human consumption that is to be consumed off the
10 premises where it is sold (other than alcoholic beverages, soft
11 drinks, and food that has been prepared for immediate
12 consumption and is not otherwise included in this paragraph)
13 and prescription and nonprescription medicines, drugs, medical
14 appliances, modifications to a motor vehicle for the purpose of
15 rendering it usable by a disabled person, and insulin, urine
16 testing materials, syringes, and needles used by diabetics, for
17 human use. For the purposes of this Section, until September 1,
18 2009: the term "soft drinks" means any complete, finished,
19 ready-to-use, non-alcoholic drink, whether carbonated or not,
20 including but not limited to soda water, cola, fruit juice,
21 vegetable juice, carbonated water, and all other preparations
22 commonly known as soft drinks of whatever kind or description
23 that are contained in any closed or sealed can, carton, or
24 container, regardless of size; but "soft drinks" does not
25 include coffee, tea, non-carbonated water, infant formula,
26 milk or milk products as defined in the Grade A Pasteurized

1 Milk and Milk Products Act, or drinks containing 50% or more
2 natural fruit or vegetable juice.

3 Notwithstanding any other provisions of this Act,
4 beginning September 1, 2009, "soft drinks" means non-alcoholic
5 beverages that contain natural or artificial sweeteners. "Soft
6 drinks" do not include beverages that contain milk or milk
7 products, soy, rice or similar milk substitutes, or greater
8 than 50% of vegetable or fruit juice by volume.

9 Until August 1, 2009, and notwithstanding any other
10 provisions of this Act, "food for human consumption that is to
11 be consumed off the premises where it is sold" includes all
12 food sold through a vending machine, except soft drinks and
13 food products that are dispensed hot from a vending machine,
14 regardless of the location of the vending machine. Beginning
15 August 1, 2009, and notwithstanding any other provisions of
16 this Act, "food for human consumption that is to be consumed
17 off the premises where it is sold" includes all food sold
18 through a vending machine, except soft drinks, candy, and food
19 products that are dispensed hot from a vending machine,
20 regardless of the location of the vending machine.

21 Notwithstanding any other provisions of this Act,
22 beginning September 1, 2009, "food for human consumption that
23 is to be consumed off the premises where it is sold" does not
24 include candy. For purposes of this Section, "candy" means a
25 preparation of sugar, honey, or other natural or artificial
26 sweeteners in combination with chocolate, fruits, nuts or other

1 ingredients or flavorings in the form of bars, drops, or
2 pieces. "Candy" does not include any preparation that contains
3 flour or requires refrigeration.

4 Notwithstanding any other provisions of this Act,
5 beginning September 1, 2009, "nonprescription medicines and
6 drugs" does not include grooming and hygiene products. For
7 purposes of this Section, "grooming and hygiene products"
8 includes, but is not limited to, soaps and cleaning solutions,
9 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
10 lotions and screens, unless those products are available by
11 prescription only, regardless of whether the products meet the
12 definition of "over-the-counter-drugs". For the purposes of
13 this paragraph, "over-the-counter-drug" means a drug for human
14 use that contains a label that identifies the product as a drug
15 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
16 label includes:

17 (A) A "Drug Facts" panel; or

18 (B) A statement of the "active ingredient(s)" with a
19 list of those ingredients contained in the compound,
20 substance or preparation.

21 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
22 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10; 97-38,
23 eff. 6-28-11; 97-227, eff. 1-1-12; revised 9-12-11.)

24 (35 ILCS 115/3-55)

25 Sec. 3-55. Sunset of exemptions, credits, and deductions.

1 (a) The application of every exemption, credit, and
2 deduction against tax imposed by this Act that becomes law
3 after the effective date of this amendatory Act of 1994 shall
4 be limited by a reasonable and appropriate sunset date. A
5 taxpayer is not entitled to take the exemption, credit, or
6 deduction beginning on the sunset date and thereafter. Except
7 as provided in subsection (b) of this Section, if ~~if~~ a
8 reasonable and appropriate sunset date is not specified in the
9 Public Act that creates the exemption, credit, or deduction, a
10 taxpayer shall not be entitled to take the exemption, credit,
11 or deduction beginning 5 years after the effective date of the
12 Public Act creating the exemption, credit, or deduction and
13 thereafter.

14 (b) Notwithstanding the provisions of subsection (a) of
15 this Section, the sunset date of any exemption, credit, or
16 deduction that is scheduled to expire in 2011, 2012, or 2013 by
17 operation of this Section shall be extended by 5 years.

18 (Source: P.A. 88-660, eff. 9-16-94.)

19 Section 15-35. The Retailers' Occupation Tax Act is amended
20 by changing Sections 2-10 and 2-70 as follows:

21 (35 ILCS 120/2-10)

22 Sec. 2-10. Rate of tax. Unless otherwise provided in this
23 Section, the tax imposed by this Act is at the rate of 6.25% of
24 gross receipts from sales of tangible personal property made in

1 the course of business.

2 Beginning on July 1, 2000 and through December 31, 2000,
3 with respect to motor fuel, as defined in Section 1.1 of the
4 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
5 the Use Tax Act, the tax is imposed at the rate of 1.25%.

6 Beginning on August 6, 2010 through August 15, 2010, with
7 respect to sales tax holiday items as defined in Section 2-8 of
8 this Act, the tax is imposed at the rate of 1.25%.

9 Within 14 days after the effective date of this amendatory
10 Act of the 91st General Assembly, each retailer of motor fuel
11 and gasohol shall cause the following notice to be posted in a
12 prominently visible place on each retail dispensing device that
13 is used to dispense motor fuel or gasohol in the State of
14 Illinois: "As of July 1, 2000, the State of Illinois has
15 eliminated the State's share of sales tax on motor fuel and
16 gasohol through December 31, 2000. The price on this pump
17 should reflect the elimination of the tax." The notice shall be
18 printed in bold print on a sign that is no smaller than 4
19 inches by 8 inches. The sign shall be clearly visible to
20 customers. Any retailer who fails to post or maintain a
21 required sign through December 31, 2000 is guilty of a petty
22 offense for which the fine shall be \$500 per day per each
23 retail premises where a violation occurs.

24 With respect to gasohol, as defined in the Use Tax Act, the
25 tax imposed by this Act applies to (i) 70% of the proceeds of
26 sales made on or after January 1, 1990, and before July 1,

1 2003, (ii) 80% of the proceeds of sales made on or after July
2 1, 2003 and on or before December 31, 2018 ~~2013~~, and (iii) 100%
3 of the proceeds of sales made thereafter. If, at any time,
4 however, the tax under this Act on sales of gasohol, as defined
5 in the Use Tax Act, is imposed at the rate of 1.25%, then the
6 tax imposed by this Act applies to 100% of the proceeds of
7 sales of gasohol made during that time.

8 With respect to majority blended ethanol fuel, as defined
9 in the Use Tax Act, the tax imposed by this Act does not apply
10 to the proceeds of sales made on or after July 1, 2003 and on or
11 before December 31, 2018 ~~2013~~ but applies to 100% of the
12 proceeds of sales made thereafter.

13 With respect to biodiesel blends, as defined in the Use Tax
14 Act, with no less than 1% and no more than 10% biodiesel, the
15 tax imposed by this Act applies to (i) 80% of the proceeds of
16 sales made on or after July 1, 2003 and on or before December
17 31, 2018 ~~2013~~ and (ii) 100% of the proceeds of sales made
18 thereafter. If, at any time, however, the tax under this Act on
19 sales of biodiesel blends, as defined in the Use Tax Act, with
20 no less than 1% and no more than 10% biodiesel is imposed at
21 the rate of 1.25%, then the tax imposed by this Act applies to
22 100% of the proceeds of sales of biodiesel blends with no less
23 than 1% and no more than 10% biodiesel made during that time.

24 With respect to 100% biodiesel, as defined in the Use Tax
25 Act, and biodiesel blends, as defined in the Use Tax Act, with
26 more than 10% but no more than 99% biodiesel, the tax imposed

1 by this Act does not apply to the proceeds of sales made on or
2 after July 1, 2003 and on or before December 31, 2018 ~~2013~~ but
3 applies to 100% of the proceeds of sales made thereafter.

4 With respect to food for human consumption that is to be
5 consumed off the premises where it is sold (other than
6 alcoholic beverages, soft drinks, and food that has been
7 prepared for immediate consumption) and prescription and
8 nonprescription medicines, drugs, medical appliances,
9 modifications to a motor vehicle for the purpose of rendering
10 it usable by a disabled person, and insulin, urine testing
11 materials, syringes, and needles used by diabetics, for human
12 use, the tax is imposed at the rate of 1%. For the purposes of
13 this Section, until September 1, 2009: the term "soft drinks"
14 means any complete, finished, ready-to-use, non-alcoholic
15 drink, whether carbonated or not, including but not limited to
16 soda water, cola, fruit juice, vegetable juice, carbonated
17 water, and all other preparations commonly known as soft drinks
18 of whatever kind or description that are contained in any
19 closed or sealed bottle, can, carton, or container, regardless
20 of size; but "soft drinks" does not include coffee, tea,
21 non-carbonated water, infant formula, milk or milk products as
22 defined in the Grade A Pasteurized Milk and Milk Products Act,
23 or drinks containing 50% or more natural fruit or vegetable
24 juice.

25 Notwithstanding any other provisions of this Act,
26 beginning September 1, 2009, "soft drinks" means non-alcoholic

1 beverages that contain natural or artificial sweeteners. "Soft
2 drinks" do not include beverages that contain milk or milk
3 products, soy, rice or similar milk substitutes, or greater
4 than 50% of vegetable or fruit juice by volume.

5 Until August 1, 2009, and notwithstanding any other
6 provisions of this Act, "food for human consumption that is to
7 be consumed off the premises where it is sold" includes all
8 food sold through a vending machine, except soft drinks and
9 food products that are dispensed hot from a vending machine,
10 regardless of the location of the vending machine. Beginning
11 August 1, 2009, and notwithstanding any other provisions of
12 this Act, "food for human consumption that is to be consumed
13 off the premises where it is sold" includes all food sold
14 through a vending machine, except soft drinks, candy, and food
15 products that are dispensed hot from a vending machine,
16 regardless of the location of the vending machine.

17 Notwithstanding any other provisions of this Act,
18 beginning September 1, 2009, "food for human consumption that
19 is to be consumed off the premises where it is sold" does not
20 include candy. For purposes of this Section, "candy" means a
21 preparation of sugar, honey, or other natural or artificial
22 sweeteners in combination with chocolate, fruits, nuts or other
23 ingredients or flavorings in the form of bars, drops, or
24 pieces. "Candy" does not include any preparation that contains
25 flour or requires refrigeration.

26 Notwithstanding any other provisions of this Act,

1 beginning September 1, 2009, "nonprescription medicines and
2 drugs" does not include grooming and hygiene products. For
3 purposes of this Section, "grooming and hygiene products"
4 includes, but is not limited to, soaps and cleaning solutions,
5 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
6 lotions and screens, unless those products are available by
7 prescription only, regardless of whether the products meet the
8 definition of "over-the-counter-drugs". For the purposes of
9 this paragraph, "over-the-counter-drug" means a drug for human
10 use that contains a label that identifies the product as a drug
11 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
12 label includes:

13 (A) A "Drug Facts" panel; or

14 (B) A statement of the "active ingredient(s)" with a
15 list of those ingredients contained in the compound,
16 substance or preparation.

17 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
18 eff. 7-13-09; 96-1000, eff. 7-2-10; 96-1012, eff. 7-7-10.)

19 (35 ILCS 120/2-70)

20 Sec. 2-70. Sunset of exemptions, credits, and deductions.

21 (a) The application of every exemption, credit, and
22 deduction against tax imposed by this Act that becomes law
23 after the effective date of this amendatory Act of 1994 shall
24 be limited by a reasonable and appropriate sunset date. A
25 taxpayer is not entitled to take the exemption, credit, or

1 deduction beginning on the sunset date and thereafter. Except
2 as provided in subsection (b) of this Section, if ~~if~~ a
3 reasonable and appropriate sunset date is not specified in the
4 Public Act that creates the exemption, credit, or deduction, a
5 taxpayer shall not be entitled to take the exemption, credit,
6 or deduction beginning 5 years after the effective date of the
7 Public Act creating the exemption, credit, or deduction and
8 thereafter.

9 (b) Notwithstanding the provisions of subsection (a) of
10 this Section, the sunset date of any exemption, credit, or
11 deduction that is scheduled to expire in 2011, 2012, or 2013 by
12 operation of this Section shall be extended by 5 years.

13 (Source: P.A. 88-660, eff. 9-16-94.)

14 Section 15-40. The Illinois Estate and Generation-Skipping
15 Transfer Tax Act is amended by changing Section 2 as follows:

16 (35 ILCS 405/2) (from Ch. 120, par. 405A-2)

17 Sec. 2. Definitions.

18 "Federal estate tax" means the tax due to the United States
19 with respect to a taxable transfer under Chapter 11 of the
20 Internal Revenue Code.

21 "Federal generation-skipping transfer tax" means the tax
22 due to the United States with respect to a taxable transfer
23 under Chapter 13 of the Internal Revenue Code.

24 "Federal return" means the federal estate tax return with

1 respect to the federal estate tax and means the federal
2 generation-skipping transfer tax return with respect to the
3 federal generation-skipping transfer tax.

4 "Federal transfer tax" means the federal estate tax or the
5 federal generation-skipping transfer tax.

6 "Illinois estate tax" means the tax due to this State with
7 respect to a taxable transfer.

8 "Illinois generation-skipping transfer tax" means the tax
9 due to this State with respect to a taxable transfer that gives
10 rise to a federal generation-skipping transfer tax.

11 "Illinois transfer tax" means the Illinois estate tax or
12 the Illinois generation-skipping transfer tax.

13 "Internal Revenue Code" means, unless otherwise provided,
14 the Internal Revenue Code of 1986, as amended from time to
15 time.

16 "Non-resident trust" means a trust that is not a resident
17 of this State for purposes of the Illinois Income Tax Act, as
18 amended from time to time.

19 "Person" means and includes any individual, trust, estate,
20 partnership, association, company or corporation.

21 "Qualified heir" means a qualified heir as defined in
22 Section 2032A(e) (1) of the Internal Revenue Code.

23 "Resident trust" means a trust that is a resident of this
24 State for purposes of the Illinois Income Tax Act, as amended
25 from time to time.

26 "State" means any state, territory or possession of the

1 United States and the District of Columbia.

2 "State tax credit" means:

3 (a) For persons dying on or after January 1, 2003 and
4 through December 31, 2005, an amount equal to the full credit
5 calculable under Section 2011 or Section 2604 of the Internal
6 Revenue Code as the credit would have been computed and allowed
7 under the Internal Revenue Code as in effect on December 31,
8 2001, without the reduction in the State Death Tax Credit as
9 provided in Section 2011(b)(2) or the termination of the State
10 Death Tax Credit as provided in Section 2011(f) as enacted by
11 the Economic Growth and Tax Relief Reconciliation Act of 2001,
12 but recognizing the increased applicable exclusion amount
13 through December 31, 2005.

14 (b) For persons dying after December 31, 2005 and on or
15 before December 31, 2009, and for persons dying after December
16 31, 2010, an amount equal to the full credit calculable under
17 Section 2011 or 2604 of the Internal Revenue Code as the credit
18 would have been computed and allowed under the Internal Revenue
19 Code as in effect on December 31, 2001, without the reduction
20 in the State Death Tax Credit as provided in Section 2011(b)(2)
21 or the termination of the State Death Tax Credit as provided in
22 Section 2011(f) as enacted by the Economic Growth and Tax
23 Relief Reconciliation Act of 2001, but recognizing the
24 exclusion amount of only (i) \$2,000,000 for persons dying prior
25 to January 1, 2012, (ii) \$3,000,000 for persons dying on or
26 after January 1, 2012 and prior to January 1, 2013, and (iii)

1 \$3,500,000 for persons dying on or after January 1, 2013, and
2 with reduction to the adjusted taxable estate for any qualified
3 terminable interest property election as defined in subsection
4 (b-1) of this Section.

5 (b-1) The person required to file the Illinois return may
6 elect on a timely filed Illinois return a marital deduction for
7 qualified terminable interest property under Section
8 2056(b)(7) of the Internal Revenue Code for purposes of the
9 Illinois estate tax that is separate and independent of any
10 qualified terminable interest property election for federal
11 estate tax purposes. For purposes of the Illinois estate tax,
12 the inclusion of property in the gross estate of a surviving
13 spouse is the same as under Section 2044 of the Internal
14 Revenue Code.

15 In the case of any trust for which a State or federal
16 qualified terminable interest property election is made, the
17 trustee may not retain non-income producing assets for more
18 than a reasonable amount of time without the consent of the
19 surviving spouse.

20 "Taxable transfer" means an event that gives rise to a
21 state tax credit, including any credit as a result of the
22 imposition of an additional tax under Section 2032A(c) of the
23 Internal Revenue Code.

24 "Transferee" means a transferee within the meaning of
25 Section 2603(a)(1) and Section 6901(h) of the Internal Revenue
26 Code.

1 "Transferred property" means:

2 (1) With respect to a taxable transfer occurring at the
3 death of an individual, the deceased individual's gross
4 estate as defined in Section 2031 of the Internal Revenue
5 Code.

6 (2) With respect to a taxable transfer occurring as a
7 result of a taxable termination as defined in Section
8 2612(a) of the Internal Revenue Code, the taxable amount
9 determined under Section 2622(a) of the Internal Revenue
10 Code.

11 (3) With respect to a taxable transfer occurring as a
12 result of a taxable distribution as defined in Section
13 2612(b) of the Internal Revenue Code, the taxable amount
14 determined under Section 2621(a) of the Internal Revenue
15 Code.

16 (4) With respect to an event which causes the
17 imposition of an additional estate tax under Section
18 2032A(c) of the Internal Revenue Code, the qualified real
19 property that was disposed of or which ceased to be used
20 for the qualified use, within the meaning of Section
21 2032A(c) (1) of the Internal Revenue Code.

22 "Trust" includes a trust as defined in Section 2652(b) (1)
23 of the Internal Revenue Code.

24 (Source: P.A. 96-789, eff. 9-8-09; 96-1496, eff. 1-13-11.)".