

**94TH GENERAL ASSEMBLY****State of Illinois****2005 and 2006****SB0750**

Introduced 2/18/2005, by Sen. James T. Meeks

SYNOPSIS AS INTRODUCED:

See Index

Amends the State Finance Act. Creates the School District Property Tax Relief Fund. Requires the General Assembly, in FY06, to appropriate \$2.4 billion from the education appropriation minimum to the School District Property Tax Relief Fund and to appropriate additional amounts each fiscal year thereafter. Requires the Department of Revenue to annually determine and certify the total amount of property tax relief grants that each school district will receive from the Fund. Sets forth procedures for appropriating these grants. Amends the Illinois Income Tax Act. Provides that for taxable years beginning after January 1, 2005, the rate of income tax for individuals, trusts, and estates is increased from 3% to 5% of the taxpayer's net income and the rate of income tax for corporations is increased from 4.8% to 8% of the taxpayer's net income. Includes retirement income within the definition of base income for individuals with an adjusted gross income of \$75,000 or more annually. Eliminates certain exemptions for corporations located in Enterprise Zones or federally designated Foreign Trade Zones. Creates the Family Tax Credit, which is a refundable tax credit available to any natural person or married couple filing jointly that reports a total annual income of \$47,000 or less. Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Eliminates exemptions concerning newsprint and ink and concerning manufacturing and assembling machinery. Includes certain arts, entertainment, and recreation services within the definition of sale at retail in the Retailers' Occupation Tax Act. Amends the Property Tax Code. Requires the county clerk to abate the extension for educational purposes for each school district in the county by the amount of the property tax relief grants received by each of those school districts. Amends the Motor Fuel Tax Law. Deletes provisions concerning discounts for timely filing and paying the taxes. Amends the School Code. In the State aid formula provisions, increases the foundation level of support and grant amount for supplemental general State aid. Provides for an education appropriation minimum and supplemental State aid for rapidly expanding school districts.

LRB094 04113 BDD 34133 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning education.

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

4 Section 5. The State Finance Act is amended by adding
5 Sections 5.640 and 6z-68 as follows:

6 (30 ILCS 105/5.640 new)

7 Sec. 5.640. The School District Property Tax Relief Fund.

8 (30 ILCS 105/6z-68 new)

9 Sec. 6z-68. School District Property Tax Relief Fund.

10 (a) The School District property Tax Relief Fund is created
11 as a special Fund in the State treasury. All interest earned on
12 moneys in the Fund shall be deposited into the Fund.

13 (b) As used in this Section:

14 "Department" means the Department of Revenue.

15 "Minimum property tax relief grant" means the minimum
16 amount of property tax relief that will be distributed to each
17 school district from the School District Property Tax Relief
18 Fund in each fiscal year.

19 "High property tax effort school district" means each
20 school district that has a total tax rate that is in the top
21 25% of all total tax rates of all school districts.

22 "Supplemental percentage" means the average daily head
23 count of a particular high property tax effort school district
24 in a fiscal year, divided by the head count total for that
25 fiscal year.

26 "Head count total" means the aggregate average daily
27 attendance of all high property tax effort school districts in
28 the applicable fiscal year.

29 "Supplemental property tax relief grant" means the amount
30 of property tax relief granted to each high property tax effort
31 school district in each fiscal year that is in addition to the

1 minimum property tax relief grant that the district receives.

2 (c) Beginning in fiscal year 2006, the General Assembly
3 shall appropriate \$2.4 billion from the education
4 appropriation minimum, as defined in Section 18-25 of the
5 School Code, to the School District Property Tax Relief Fund.
6 In each fiscal year thereafter, the General Assembly shall
7 appropriate an amount from the education appropriation
8 minimum, to the School District Property Tax Relief Fund equal
9 to the amount appropriated to the School District Property Tax
10 Relief Fund in the immediately preceding fiscal year, increased
11 by the Employment Cost Index ("ECI") published by the U.S.
12 Bureau of Labor Statistics for the immediately preceding fiscal
13 year.

14 (d) Between November 15 and 17 beginning in fiscal year
15 2006 and for every year thereafter, the Department must
16 certify, no earlier than November 15 and no later than November
17 17, the total amount of property tax relief each school
18 district will receive from the School District Property Tax
19 Relief Fund. The relief shall be determined as follows:

20 (1) In each fiscal year commencing with fiscal year
21 2006, the General Assembly shall appropriate 80% of the
22 total amount appropriated to the School District Property
23 Tax Relief Fund for that fiscal year to fund the aggregate
24 amount of minimum property tax relief grants that will be
25 distributed to all school districts. The Department then
26 shall calculate the amount of minimum property tax relief
27 grant to be distributed to each school district in each
28 fiscal year as follows:

29 (A) for fiscal year 2006, each school district
30 shall receive a minimum property tax relief grant in an
31 amount equal to 20% of the total property taxes
32 reported as payable for that school district in fiscal
33 year 2002; and

34 (B) for each fiscal year thereafter, the minimum
35 property tax relief grant for each school district must
36 be increased by the percentage increase, if any, in the

1 ECI published for the prior fiscal year.

2 (2) In each fiscal year commencing with fiscal year
3 2006, the General Assembly shall appropriate 20% of the
4 total amount appropriated to the School District Property
5 Tax Relief Fund for that fiscal year to fund the aggregate
6 amount of supplemental property tax relief grants that will
7 be distributed to all high property tax effort school
8 districts. The Department shall calculate the amount of
9 supplemental property tax relief grants payable to a
10 particular high property tax effort school district in each
11 fiscal year commencing in fiscal year 2006 and continuing
12 in each fiscal year thereafter by multiplying the
13 Supplemental Percentage of that high property tax effort
14 school district for that fiscal year by the total amount
15 appropriated to fund all the supplemental property tax
16 relief grants in that fiscal year.

17 Section 10. The Illinois Income Tax Act is amended by
18 changing Sections 201 and 203 and by adding Section 247 as
19 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
25 of earning or receiving income in or as a resident of this
26 State. Such tax shall be in addition to all other occupation or
27 privilege taxes imposed by this State or by any municipal
28 corporation or political subdivision thereof.

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

32 (1) In the case of an individual, trust or estate, for
33 taxable years ending prior to July 1, 1989, an amount equal
34 to 2 1/2% of the taxpayer's net income for the taxable

1 year.

2 (2) In the case of an individual, trust or estate, for
3 taxable years beginning prior to July 1, 1989 and ending
4 after June 30, 1989, an amount equal to the sum of (i) 2
5 1/2% of the taxpayer's net income for the period prior to
6 July 1, 1989, as calculated under Section 202.3, and (ii)
7 3% of the taxpayer's net income for the period after June
8 30, 1989, as calculated under Section 202.3.

9 (3) In the case of an individual, trust or estate, for
10 taxable years beginning after June 30, 1989 and beginning
11 on or before January 1, 2005, an amount equal to 3% of the
12 taxpayer's net income for the taxable year.

13 (4) In the case of an individual, trust or estate, for
14 taxable years beginning after January 1, 2005, an amount
15 equal to 5% of the taxpayer's net income for the taxable
16 year (Blank).

17 (5) (Blank).

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

21 (7) In the case of a corporation, for taxable years
22 beginning prior to July 1, 1989 and ending after June 30,
23 1989, an amount equal to the sum of (i) 4% of the
24 taxpayer's net income for the period prior to July 1, 1989,
25 as calculated under Section 202.3, and (ii) 4.8% of the
26 taxpayer's net income for the period after June 30, 1989,
27 as calculated under Section 202.3.

28 (8) In the case of a corporation, for taxable years
29 beginning after June 30, 1989 and beginning on or before
30 January 1, 2005, an amount equal to 4.8% of the taxpayer's
31 net income for the taxable year.

32 (9) In the case of a corporation, for taxable years
33 beginning after January 1, 2005, an amount equal to 8% of the
34 taxpayer's net income for the taxable year.

35 (c) Personal Property Tax Replacement Income Tax.
36 Beginning on July 1, 1979 and thereafter, in addition to such

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

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

24 (d-1) Rate reduction for certain foreign insurers. In the
25 case of a foreign insurer, as defined by Section 35A-5 of the
26 Illinois Insurance Code, whose state or country of domicile
27 imposes on insurers domiciled in Illinois a retaliatory tax
28 (excluding any insurer whose premiums from reinsurance assumed
29 are 50% or more of its total insurance premiums as determined
30 under paragraph (2) of subsection (b) of Section 304, except
31 that for purposes of this determination premiums from
32 reinsurance do not include premiums from inter-affiliate
33 reinsurance arrangements), beginning with taxable years ending
34 on or after December 31, 1999, the sum of the rates of tax
35 imposed by subsections (b) and (d) shall be reduced (but not
36 increased) to the rate at which the total amount of tax imposed

1 under this Act, net of all credits allowed under this Act,
2 shall equal (i) the total amount of tax that would be imposed
3 on the foreign insurer's net income allocable to Illinois for
4 the taxable year by such foreign insurer's state or country of
5 domicile if that net income were subject to all income taxes
6 and taxes measured by net income imposed by such foreign
7 insurer's state or country of domicile, net of all credits
8 allowed or (ii) a rate of zero if no such tax is imposed on such
9 income by the foreign insurer's state of domicile. For the
10 purposes of this subsection (d-1), an inter-affiliate includes
11 a mutual insurer under common management.

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

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

18 (B) the privilege tax imposed by Section 409 of the
19 Illinois Insurance Code, the fire insurance company
20 tax imposed by Section 12 of the Fire Investigation
21 Act, and the fire department taxes imposed under
22 Section 11-10-1 of the Illinois Municipal Code,
23 equals 1.25% for taxable years ending prior to December 31,
24 2003, or 1.75% for taxable years ending on or after
25 December 31, 2003, of the net taxable premiums written for
26 the taxable year, as described by subsection (1) of Section
27 409 of the Illinois Insurance Code. This paragraph will in
28 no event increase the rates imposed under subsections (b)
29 and (d).

30 (2) Any reduction in the rates of tax imposed by this
31 subsection shall be applied first against the rates imposed
32 by subsection (b) and only after the tax imposed by
33 subsection (a) net of all credits allowed under this
34 Section other than the credit allowed under subsection (i)
35 has been reduced to zero, against the rates imposed by
36 subsection (d).

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

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

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

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

28 (2) The term "qualified property" means property
29 which:

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

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

6 (C) is acquired by purchase as defined in Section
7 179(d) of the Internal Revenue Code;

8 (D) is used in Illinois by a taxpayer who is
9 primarily engaged in manufacturing, or in mining coal
10 or fluorite, or in retailing; and

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

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

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

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

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

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

17 (8) Unless the investment credit is extended by law,
18 the basis of qualified property shall not include costs
19 incurred after December 31, 2008, except for costs incurred
20 pursuant to a binding contract entered into on or before
21 December 31, 2008.

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

1 shall be irrevocable.

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

16 (f) Investment credit; Enterprise Zone.

17 (1) A taxpayer shall be allowed a credit against the
18 tax imposed by subsections (a) and (b) of this Section for
19 investment in qualified property which is placed in service
20 in an Enterprise Zone created pursuant to the Illinois
21 Enterprise Zone Act. For partners, shareholders of
22 Subchapter S corporations, and owners of limited liability
23 companies, if the liability company is treated as a
24 partnership for purposes of federal and State income
25 taxation, there shall be allowed a credit under this
26 subsection (f) to be determined in accordance with the
27 determination of income and distributive share of income
28 under Sections 702 and 704 and Subchapter S of the Internal
29 Revenue Code. The credit shall be .5% of the basis for such
30 property. The credit shall be available only in the taxable
31 year in which the property is placed in service in the
32 Enterprise Zone and shall not be allowed to the extent that
33 it would reduce a taxpayer's liability for the tax imposed
34 by subsections (a) and (b) of this Section to below zero.
35 For tax years ending on or after December 31, 1985, the
36 credit shall be allowed for the tax year in which the

1 property is placed in service, or, if the amount of the
2 credit exceeds the tax liability for that year, whether it
3 exceeds the original liability or the liability as later
4 amended, such excess may be carried forward and applied to
5 the tax liability of the 5 taxable years following the
6 excess credit year. The credit shall be applied to the
7 earliest year for which there is a liability. If there is
8 credit from more than one tax year that is available to
9 offset a liability, the credit accruing first in time shall
10 be applied first.

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

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

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

19 (C) is acquired by purchase as defined in Section
20 179(d) of the Internal Revenue Code;

21 (D) is used in the Enterprise Zone by the taxpayer;
22 and

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

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

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

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

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

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

20 (1) A taxpayer conducting a trade or business in an
21 enterprise zone or a High Impact Business designated by the
22 Department of Commerce and Economic Opportunity conducting
23 a trade or business in a federally designated Foreign Trade
24 Zone or Sub-Zone shall be allowed a credit against the tax
25 imposed by subsections (a) and (b) of this Section in the
26 amount of \$500 per eligible employee hired to work in the
27 zone during the taxable year.

28 (2) To qualify for the credit:

29 (A) the taxpayer must hire 5 or more eligible
30 employees to work in an enterprise zone or federally
31 designated Foreign Trade Zone or Sub-Zone during the
32 taxable year;

33 (B) the taxpayer's total employment within the
34 enterprise zone or federally designated Foreign Trade
35 Zone or Sub-Zone must increase by 5 or more full-time
36 employees beyond the total employed in that zone at the

1 end of the previous tax year for which a jobs tax
2 credit under this Section was taken, or beyond the
3 total employed by the taxpayer as of December 31, 1985,
4 whichever is later; and

5 (C) the eligible employees must be employed 180
6 consecutive days in order to be deemed hired for
7 purposes of this subsection.

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

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

16 (B) Hired after the enterprise zone or federally
17 designated Foreign Trade Zone or Sub-Zone was
18 designated or the trade or business was located in that
19 zone, whichever is later.

20 (C) Employed in the enterprise zone or Foreign
21 Trade Zone or Sub-Zone. An employee is employed in an
22 enterprise zone or federally designated Foreign Trade
23 Zone or Sub-Zone if his services are rendered there or
24 it is the base of operations for the services
25 performed.

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

28 (4) For tax years ending on or after December 31, 1985
29 and prior to December 31, 1988, the credit shall be allowed
30 for the tax year in which the eligible employees are hired.
31 For tax years ending on or after December 31, 1988, the
32 credit shall be allowed for the tax year immediately
33 following the tax year in which the eligible employees are
34 hired. If the amount of the credit exceeds the tax
35 liability for that year, whether it exceeds the original
36 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, earlier
6 credit shall be applied first.

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

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

12 (h) Investment credit; High Impact Business.

13 (1) Subject to subsections (b) and (b-5) of Section 5.5
14 of the Illinois Enterprise Zone Act, a taxpayer shall be
15 allowed a credit against the tax imposed by subsections (a)
16 and (b) of this Section for investment in qualified
17 property which is placed in service by a Department of
18 Commerce and Economic Opportunity designated High Impact
19 Business. The credit shall be .5% of the basis for such
20 property. The credit shall not be available (i) until the
21 minimum investments in qualified property set forth in
22 subdivision (a)(3)(A) of Section 5.5 of the Illinois
23 Enterprise Zone Act have been satisfied or (ii) until the
24 time authorized in subsection (b-5) of the Illinois
25 Enterprise Zone Act for entities designated as High Impact
26 Businesses under subdivisions (a)(3)(B), (a)(3)(C), and
27 (a)(3)(D) of Section 5.5 of the Illinois Enterprise Zone
28 Act, and shall not be allowed to the extent that it would
29 reduce a taxpayer's liability for the tax imposed by
30 subsections (a) and (b) of this Section to below zero. The
31 credit applicable to such investments shall be taken in the
32 taxable year in which such investments have been completed.
33 The credit for additional investments beyond the minimum
34 investment by a designated high impact business authorized
35 under subdivision (a)(3)(A) of Section 5.5 of the Illinois
36 Enterprise Zone Act shall be available only in the taxable

1 year in which the property is placed in service and shall
2 not be allowed to the extent that it would reduce a
3 taxpayer's liability for the tax imposed by subsections (a)
4 and (b) of this Section to below zero. For tax years ending
5 on or after December 31, 1987, the credit shall be allowed
6 for the tax year in which the property is placed in
7 service, or, if the amount of the credit exceeds the tax
8 liability for that year, whether it exceeds the original
9 liability or the liability as later amended, such excess
10 may be carried forward and applied to the tax liability of
11 the 5 taxable years following the excess credit year. The
12 credit shall be applied to the earliest year for which
13 there is a liability. If there is credit from more than one
14 tax year that is available to offset a liability, the
15 credit accruing first in time shall be applied first.

16 Changes made in this subdivision (h) (1) by Public Act
17 88-670 restore changes made by Public Act 85-1182 and
18 reflect existing law.

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 (h);

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

29 (D) is not eligible for the Enterprise Zone
30 Investment Credit provided by subsection (f) of this
31 Section.

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

35 (4) If the basis of the property for federal income tax
36 depreciation purposes is increased after it has been placed

1 in service in a federally designated Foreign Trade Zone or
2 Sub-Zone located in Illinois by the taxpayer, the amount of
3 such increase shall be deemed property placed in service on
4 the date of such increase in basis.

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

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

25 (7) Beginning with tax years ending after December 31,
26 1996, if a taxpayer qualifies for the credit under this
27 subsection (h) and thereby is granted a tax abatement and
28 the taxpayer relocates its entire facility in violation of
29 the explicit terms and length of the contract under Section
30 18-183 of the Property Tax Code, the tax imposed under
31 subsections (a) and (b) of this Section shall be increased
32 for the taxable year in which the taxpayer relocated its
33 facility by an amount equal to the amount of credit
34 received by the taxpayer under this subsection (h).

35 (i) Credit for Personal Property Tax Replacement Income
36 Tax. For tax years ending prior to December 31, 2003, a credit

1 shall be allowed against the tax imposed by subsections (a) and
2 (b) of this Section for the tax imposed by subsections (c) and
3 (d) of this Section. This credit shall be computed by
4 multiplying the tax imposed by subsections (c) and (d) of this
5 Section by a fraction, the numerator of which is base income
6 allocable to Illinois and the denominator of which is Illinois
7 base income, and further multiplying the product by the tax
8 rate imposed by subsections (a) and (b) of this Section.

9 Any credit earned on or after December 31, 1986 under this
10 subsection which is unused in the year the credit is computed
11 because it exceeds the tax liability imposed by subsections (a)
12 and (b) for that year (whether it exceeds the original
13 liability or the liability as later amended) may be carried
14 forward and applied to the tax liability imposed by subsections
15 (a) and (b) of the 5 taxable years following the excess credit
16 year, provided that no credit may be carried forward to any
17 year ending on or after December 31, 2003. This credit shall be
18 applied first to the earliest year for which there is a
19 liability. If there is a credit under this subsection from more
20 than one tax year that is available to offset a liability the
21 earliest credit arising under this subsection shall be applied
22 first.

23 If, during any taxable year ending on or after December 31,
24 1986, the tax imposed by subsections (c) and (d) of this
25 Section for which a taxpayer has claimed a credit under this
26 subsection (i) is reduced, the amount of credit for such tax
27 shall also be reduced. Such reduction shall be determined by
28 recomputing the credit to take into account the reduced tax
29 imposed by subsections (c) and (d). If any portion of the
30 reduced amount of credit has been carried to a different
31 taxable year, an amended return shall be filed for such taxable
32 year to reduce the amount of credit claimed.

33 (j) Training expense credit. Beginning with tax years
34 ending on or after December 31, 1986 and prior to December 31,
35 2003, a taxpayer shall be allowed a credit against the tax
36 imposed by subsections (a) and (b) under this Section for all

1 amounts paid or accrued, on behalf of all persons employed by
2 the taxpayer in Illinois or Illinois residents employed outside
3 of Illinois by a taxpayer, for educational or vocational
4 training in semi-technical or technical fields or semi-skilled
5 or skilled fields, which were deducted from gross income in the
6 computation of taxable income. The credit against the tax
7 imposed by subsections (a) and (b) shall be 1.6% of such
8 training expenses. For partners, shareholders of subchapter S
9 corporations, and owners of limited liability companies, if the
10 liability company is treated as a partnership for purposes of
11 federal and State income taxation, there shall be allowed a
12 credit under this subsection (j) to be determined in accordance
13 with the determination of income and distributive share of
14 income under Sections 702 and 704 and subchapter S of the
15 Internal Revenue Code.

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

26 (k) Research and development credit.

27 For tax years ending after July 1, 1990 and prior to
28 December 31, 2003, and beginning again for tax years ending on
29 or after December 31, 2004, a taxpayer shall be allowed a
30 credit against the tax imposed by subsections (a) and (b) of
31 this Section for increasing research activities in this State.
32 The credit allowed against the tax imposed by subsections (a)
33 and (b) shall be equal to 6 1/2% of the qualifying expenditures
34 for increasing research activities in this State. For partners,
35 shareholders of subchapter S corporations, and owners of
36 limited liability companies, if the liability company is

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

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

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

28 If an unused credit is carried forward to a given year from
29 2 or more earlier years, that credit arising in the earliest
30 year will be applied first against the tax liability for the
31 given year. If a tax liability for the given year still
32 remains, the credit from the next earliest year will then be
33 applied, and so on, until all credits have been used or no tax
34 liability for the given year remains. Any remaining unused
35 credit or credits then will be carried forward to the next
36 following year in which a tax liability is incurred, except

1 that no credit can be carried forward to a year which is more
2 than 5 years after the year in which the expense for which the
3 credit is given was incurred.

4 No inference shall be drawn from this amendatory Act of the
5 91st General Assembly in construing this Section for taxable
6 years beginning before January 1, 1999.

7 (1) Environmental Remediation Tax Credit.

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

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

19 (ii) A credit allowed under this subsection that is
20 unused in the year the credit is earned may be carried
21 forward to each of the 5 taxable years following the year
22 for which the credit is first earned until it is used. The
23 term "unused credit" does not include any amounts of
24 unreimbursed eligible remediation costs in excess of the
25 maximum credit per site authorized under paragraph (i).
26 This credit shall be applied first to the earliest year for
27 which there is a liability. If there is a credit under this
28 subsection from more than one tax year that is available to
29 offset a liability, the earliest credit arising under this
30 subsection shall be applied first. A credit allowed under
31 this subsection may be sold to a buyer as part of a sale of
32 all or part of the remediation site for which the credit
33 was granted. The purchaser of a remediation site and the
34 tax credit shall succeed to the unused credit and remaining
35 carry-forward period of the seller. To perfect the
36 transfer, the assignor shall record the transfer in the

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

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

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

23 For purposes of this subsection:

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

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

35 "School" means any public or nonpublic elementary or
36 secondary school in Illinois that is in compliance with Title

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

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

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

13 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

14 Sec. 203. Base income defined.

15 (a) Individuals.

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

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

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

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

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

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

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

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

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

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

34 (D-16) If the taxpayer reports a capital gain or
35 loss on the taxpayer's federal income tax return for
36 the taxable year based on a sale or transfer of

1 property for which the taxpayer was required in any
2 taxable year to make an addition modification under
3 subparagraph (D-15), then an amount equal to the
4 aggregate amount of the deductions taken in all taxable
5 years under subparagraph (Z) with respect to that
6 property; and -

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

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

29 This paragraph shall not apply to the following:

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

36 (ii) an item of interest paid, accrued, or

1 incurred, directly or indirectly, to a foreign
2 person if the taxpayer can establish, based on a
3 preponderance of the evidence, both of the
4 following:

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

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

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

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

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

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

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

1 property" includes patents, patent applications, trade
2 names, trademarks, service marks, copyrights, mask
3 works, trade secrets, and similar types of intangible
4 assets.

5 This paragraph shall not apply to the following:

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

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

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

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

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

1 304(f);

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

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

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

22 (E) For taxable years ending before December 31,
23 2001, any amount included in such total in respect of
24 any compensation (including but not limited to any
25 compensation paid or accrued to a serviceman while a
26 prisoner of war or missing in action) paid to a
27 resident by reason of being on active duty in the Armed
28 Forces of the United States and in respect of any
29 compensation paid or accrued to a resident who as a
30 governmental employee was a prisoner of war or missing
31 in action, and in respect of any compensation paid to a
32 resident in 1971 or thereafter for annual training
33 performed pursuant to Sections 502 and 503, Title 32,
34 United States Code as a member of the Illinois National
35 Guard. For taxable years ending on or after December
36 31, 2001, any amount included in such total in respect

1 of any compensation (including but not limited to any
2 compensation paid or accrued to a serviceman while a
3 prisoner of war or missing in action) paid to a
4 resident by reason of being a member of any component
5 of the Armed Forces of the United States and in respect
6 of any compensation paid or accrued to a resident who
7 as a governmental employee was a prisoner of war or
8 missing in action, and in respect of any compensation
9 paid to a resident in 2001 or thereafter by reason of
10 being a member of the Illinois National Guard. The
11 provisions of this amendatory Act of the 92nd General
12 Assembly are exempt from the provisions of Section 250;

13 (F) For taxable years beginning on or before
14 January 1, 2005, an ~~An~~ amount equal to all amounts
15 included in such total pursuant to the provisions of
16 Sections 402(a), 402(c), 403(a), 403(b), 406(a),
17 407(a), and 408 of the Internal Revenue Code, or
18 included in such total as distributions under the
19 provisions of any retirement or disability plan for
20 employees of any governmental agency or unit, or
21 retirement payments to retired partners, which
22 payments are excluded in computing net earnings from
23 self employment by Section 1402 of the Internal Revenue
24 Code and regulations adopted pursuant thereto;

25 (F-5) For taxable years beginning after January 1,
26 2005, for those taxpayers who report an adjusted gross
27 income of \$74,999 ("the retirement threshold amount")
28 or less, an amount equal to all amounts included in
29 such total pursuant to the provisions of Sections
30 402(a), 402(c), 403(a), 403(b), 406(a), 407(a), and
31 408 of the Internal Revenue Code, or included in such
32 total as distributions under the provisions of any
33 retirement or disability plan for employees of any
34 governmental agency or unit, or retirement payments to
35 retired partners, which payments are excluded in
36 computing net earnings from self employment by Section

1 1402 of the Internal Revenue Code and regulations
2 adopted pursuant thereto, provided that the retirement
3 threshold amount shall increase annually for each tax
4 year by the percentage increase, if any, in the
5 Consumer Price Index published by the U.S. Bureau of
6 Labor Statistics from July of the immediately
7 preceding tax year to June 30 of the then current tax
8 year;

9 (G) The valuation limitation amount;

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

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

18 (J) An amount equal to those dividends included in
19 such total which were paid by a corporation which
20 conducts business operations in an Enterprise Zone or
21 zones created under the Illinois Enterprise Zone Act,
22 and conducts substantially all of its operations in an
23 Enterprise Zone or zones;

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

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

1 Revenue Code;

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

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

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

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

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

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

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

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

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

24 (V) Beginning with tax years ending on or after
25 December 31, 1995 and ending with tax years ending on
26 or before December 31, 2004, an amount equal to the
27 amount paid by a taxpayer who is a self-employed
28 taxpayer, a partner of a partnership, or a shareholder
29 in a Subchapter S corporation for health insurance or
30 long-term care insurance for that taxpayer or that
31 taxpayer's spouse or dependents, to the extent that the
32 amount paid for that health insurance or long-term care
33 insurance may be deducted under Section 213 of the
34 Internal Revenue Code of 1986, has not been deducted on
35 the federal income tax return of the taxpayer, and does
36 not exceed the taxable income attributable to that

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

15 (W) For taxable years beginning on or after January
16 1, 1998, all amounts included in the taxpayer's federal
17 gross income in the taxable year from amounts converted
18 from a regular IRA to a Roth IRA. This paragraph is
19 exempt from the provisions of Section 250;

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

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

17 (Y) For taxable years beginning on or after January
18 1, 2002 and ending on or before December 31, 2004,
19 moneys contributed in the taxable year to a College
20 Savings Pool account under Section 16.5 of the State
21 Treasurer Act, except that amounts excluded from gross
22 income under Section 529(c)(3)(C)(i) of the Internal
23 Revenue Code shall not be considered moneys
24 contributed under this subparagraph (Y). For taxable
25 years beginning on or after January 1, 2005, a maximum
26 of \$10,000 contributed in the taxable year to (i) a
27 College Savings Pool account under Section 16.5 of the
28 State Treasurer Act or (ii) the Illinois Prepaid
29 Tuition Trust Fund, except that amounts excluded from
30 gross income under Section 529(c)(3)(C)(i) of the
31 Internal Revenue Code shall not be considered moneys
32 contributed under this subparagraph (Y). This
33 subparagraph (Y) is exempt from the provisions of
34 Section 250;

35 (Z) For taxable years 2001 and thereafter, for the
36 taxable year in which the bonus depreciation deduction

1 (30% of the adjusted basis of the qualified property)
2 is taken on the taxpayer's federal income tax return
3 under subsection (k) of Section 168 of the Internal
4 Revenue Code and for each applicable taxable year
5 thereafter, an amount equal to "x", where:

6 (1) "y" equals the amount of the depreciation
7 deduction taken for the taxable year on the
8 taxpayer's federal income tax return on property
9 for which the bonus depreciation deduction (30% of
10 the adjusted basis of the qualified property) was
11 taken in any year under subsection (k) of Section
12 168 of the Internal Revenue Code, but not including
13 the bonus depreciation deduction; and

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

16 The aggregate amount deducted under this
17 subparagraph in all taxable years for any one piece of
18 property may not exceed the amount of the bonus
19 depreciation deduction (30% of the adjusted basis of
20 the qualified property) taken on that property on the
21 taxpayer's federal income tax return under subsection
22 (k) of Section 168 of the Internal Revenue Code;

23 (AA) If the taxpayer reports a capital gain or loss
24 on the taxpayer's federal income tax return for the
25 taxable year based on a sale or transfer of property
26 for which the taxpayer was required in any taxable year
27 to make an addition modification under subparagraph
28 (D-15), then an amount equal to that addition
29 modification.

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

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

36 (CC) The amount of (i) any interest income (net of

1 the deductions allocable thereto) taken into account
2 for the taxable year with respect to a transaction with
3 a taxpayer that is required to make an addition
4 modification with respect to such transaction under
5 Section 203(a)(2)(D-17), 203(b)(2)(E-13),
6 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
7 the amount of that addition modification, and (ii) any
8 income from intangible property (net of the deductions
9 allocable thereto) taken into account for the taxable
10 year with respect to a transaction with a taxpayer that
11 is required to make an addition modification with
12 respect to such transaction under Section
13 203(a)(2)(D-18), 203(b)(2)(E-14), 203(c)(2)(G-13), or
14 203(d)(2)(D-8), but not to exceed the amount of that
15 addition modification;

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

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

1 taxable year under Section 203(a)(2)(D-18) for
2 intangible expenses and costs paid, accrued, or
3 incurred, directly or indirectly, to the same foreign
4 person.

5 (b) Corporations.

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

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

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

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

20 (C) In the case of a regulated investment company,
21 an amount equal to the excess of (i) the net long-term
22 capital gain for the taxable year, over (ii) the amount
23 of the capital gain dividends designated as such in
24 accordance with Section 852(b)(3)(C) of the Internal
25 Revenue Code and any amount designated under Section
26 852(b)(3)(D) of the Internal Revenue Code,
27 attributable to the taxable year (this amendatory Act
28 of 1995 (Public Act 89-89) is declarative of existing
29 law and is not a new enactment);

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

34 (E) For taxable years in which a net operating loss
35 carryback or carryforward from a taxable year ending

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

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

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

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

29 (E-5) For taxable years ending after December 31,
30 1997, an amount equal to any eligible remediation costs
31 that the corporation deducted in computing adjusted
32 gross income and for which the corporation claims a
33 credit under subsection (l) of Section 201;

34 (E-10) For taxable years 2001 and thereafter, an
35 amount equal to the bonus depreciation deduction (30%
36 of the adjusted basis of the qualified property) taken

1 on the taxpayer's federal income tax return for the
2 taxable year under subsection (k) of Section 168 of the
3 Internal Revenue Code; and

4 (E-11) If the taxpayer reports a capital gain or
5 loss on the taxpayer's federal income tax return for
6 the taxable year based on a sale or transfer of
7 property for which the taxpayer was required in any
8 taxable year to make an addition modification under
9 subparagraph (E-10), then an amount equal to the
10 aggregate amount of the deductions taken in all taxable
11 years under subparagraph (T) with respect to that
12 property.

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

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

36 This paragraph shall not apply to the following:

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

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

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

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

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

29 (iv) an item of interest paid, accrued, or
30 incurred, directly or indirectly, to a foreign
31 person if the taxpayer establishes by clear and
32 convincing evidence that the adjustments are
33 unreasonable; or if the taxpayer and the Director
34 agree in writing to the application or use of an
35 alternative method of apportionment under Section
36 304(f).

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

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

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

12 This paragraph shall not apply to the following:

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

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

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

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

36 (iii) any item of intangible expense or cost

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

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

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

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

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

25 (H) In the case of a regulated investment company,
26 an amount equal to the amount of exempt interest
27 dividends as defined in subsection (b) (5) of Section
28 852 of the Internal Revenue Code, paid to shareholders
29 for the taxable year;

30 (I) With the exception of any amounts subtracted
31 under subparagraph (J), an amount equal to the sum of
32 all amounts disallowed as deductions by (i) Sections
33 171(a) (2), and 265(a) (2) and amounts disallowed as
34 interest expense by Section 291(a) (3) of the Internal
35 Revenue Code, as now or hereafter amended, and all
36 amounts of expenses allocable to interest and

1 disallowed as deductions by Section 265(a)(1) of the
2 Internal Revenue Code, as now or hereafter amended; and
3 (ii) for taxable years ending on or after August 13,
4 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and
5 832(b)(5)(B)(i) of the Internal Revenue Code; the
6 provisions of this subparagraph are exempt from the
7 provisions of Section 250;

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

17 (K) (Blank); ~~An amount equal to those dividends~~
18 ~~included in such total which were paid by a corporation~~
19 ~~which conducts business operations in an Enterprise~~
20 ~~Zone or zones created under the Illinois Enterprise~~
21 ~~Zone Act and conducts substantially all of its~~
22 ~~operations in an Enterprise Zone or zones;~~

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

32 (M) For any taxpayer that is a financial
33 organization within the meaning of Section 304(c) of
34 this Act, an amount included in such total as interest
35 income from a loan or loans made by such taxpayer to a
36 borrower, to the extent that such a loan is secured by

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

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

1 year under this subsection shall be that portion of the
2 total interest paid by the borrower with respect to
3 such loan attributable to the eligible property as
4 calculated under the previous sentence;

5 (N) Two times any contribution made during the
6 taxable year to a designated zone organization to the
7 extent that the contribution (i) qualifies as a
8 charitable contribution under subsection (c) of
9 Section 170 of the Internal Revenue Code and (ii) must,
10 by its terms, be used for a project approved by the
11 Department of Commerce and Economic Opportunity under
12 Section 11 of the Illinois Enterprise Zone Act;

13 (O) An amount equal to: (i) 85% for taxable years
14 ending on or before December 31, 1992, or, a percentage
15 equal to the percentage allowable under Section
16 243(a)(1) of the Internal Revenue Code of 1986 for
17 taxable years ending after December 31, 1992, of the
18 amount by which dividends included in taxable income
19 and received from a corporation that is not created or
20 organized under the laws of the United States or any
21 state or political subdivision thereof, including, for
22 taxable years ending on or after December 31, 1988,
23 dividends received or deemed received or paid or deemed
24 paid under Sections 951 through 964 of the Internal
25 Revenue Code, exceed the amount of the modification
26 provided under subparagraph (G) of paragraph (2) of
27 this subsection (b) which is related to such dividends;
28 plus (ii) 100% of the amount by which dividends,
29 included in taxable income and received, including,
30 for taxable years ending on or after December 31, 1988,
31 dividends received or deemed received or paid or deemed
32 paid under Sections 951 through 964 of the Internal
33 Revenue Code, from any such corporation specified in
34 clause (i) that would but for the provisions of Section
35 1504 (b) (3) of the Internal Revenue Code be treated as
36 a member of the affiliated group which includes the

1 dividend recipient, exceed the amount of the
2 modification provided under subparagraph (G) of
3 paragraph (2) of this subsection (b) which is related
4 to such dividends;

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

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

13 (R) In the case of an attorney-in-fact with respect
14 to whom an interinsurer or a reciprocal insurer has
15 made the election under Section 835 of the Internal
16 Revenue Code, 26 U.S.C. 835, an amount equal to the
17 excess, if any, of the amounts paid or incurred by that
18 interinsurer or reciprocal insurer in the taxable year
19 to the attorney-in-fact over the deduction allowed to
20 that interinsurer or reciprocal insurer with respect
21 to the attorney-in-fact under Section 835(b) of the
22 Internal Revenue Code for the taxable year;

23 (S) For taxable years ending on or after December
24 31, 1997, in the case of a Subchapter S corporation, an
25 amount equal to all amounts of income allocable to a
26 shareholder subject to the Personal Property Tax
27 Replacement Income Tax imposed by subsections (c) and
28 (d) of Section 201 of this Act, including amounts
29 allocable to organizations exempt from federal income
30 tax by reason of Section 501(a) of the Internal Revenue
31 Code. This subparagraph (S) is exempt from the
32 provisions of Section 250;

33 (T) For taxable years 2001 and thereafter, for the
34 taxable year in which the bonus depreciation deduction
35 (30% of the adjusted basis of the qualified property)
36 is taken on the taxpayer's federal income tax return

1 under subsection (k) of Section 168 of the Internal
2 Revenue Code and for each applicable taxable year
3 thereafter, an amount equal to "x", where:

4 (1) "y" equals the amount of the depreciation
5 deduction taken for the taxable year on the
6 taxpayer's federal income tax return on property
7 for which the bonus depreciation deduction (30% of
8 the adjusted basis of the qualified property) was
9 taken in any year under subsection (k) of Section
10 168 of the Internal Revenue Code, but not including
11 the bonus depreciation deduction; and

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

14 The aggregate amount deducted under this
15 subparagraph in all taxable years for any one piece of
16 property may not exceed the amount of the bonus
17 depreciation deduction (30% of the adjusted basis of
18 the qualified property) taken on that property on the
19 taxpayer's federal income tax return under subsection
20 (k) of Section 168 of the Internal Revenue Code;

21 (U) If the taxpayer reports a capital gain or loss
22 on the taxpayer's federal income tax return for the
23 taxable year based on a sale or transfer of property
24 for which the taxpayer was required in any taxable year
25 to make an addition modification under subparagraph
26 (E-10), then an amount equal to that addition
27 modification.

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

31 (V) The amount of: (i) any interest income (net of
32 the deductions allocable thereto) taken into account
33 for the taxable year with respect to a transaction with
34 a taxpayer that is required to make an addition
35 modification with respect to such transaction under
36 Section 203(a)(2)(D-17), 203(b)(2)(E-12),

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

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

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

36 (3) Special rule. For purposes of paragraph (2) (A),

1 "gross income" in the case of a life insurance company, for
2 tax years ending on and after December 31, 1994, shall mean
3 the gross investment income for the taxable year.

4 (c) Trusts and estates.

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

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

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

16 (B) In the case of (i) an estate, \$600; (ii) a
17 trust which, under its governing instrument, is
18 required to distribute all of its income currently,
19 \$300; and (iii) any other trust, \$100, but in each such
20 case, only to the extent such amount was deducted in
21 the computation of taxable income;

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

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

29 (E) For taxable years in which a net operating loss
30 carryback or carryforward from a taxable year ending
31 prior to December 31, 1986 is an element of taxable
32 income under paragraph (1) of subsection (e) or
33 subparagraph (E) of paragraph (2) of subsection (e),
34 the amount by which addition modifications other than
35 those provided by this subparagraph (E) exceeded

1 subtraction modifications in such taxable year, with
2 the following limitations applied in the order that
3 they are listed:

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

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

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

24 (F) For taxable years ending on or after January 1,
25 1989, an amount equal to the tax deducted pursuant to
26 Section 164 of the Internal Revenue Code if the trust
27 or estate is claiming the same tax for purposes of the
28 Illinois foreign tax credit under Section 601 of this
29 Act;

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

34 (G-5) For taxable years ending after December 31,
35 1997, an amount equal to any eligible remediation costs
36 that the trust or estate deducted in computing adjusted

1 gross income and for which the trust or estate claims a
2 credit under subsection (l) of Section 201;

3 (G-10) For taxable years 2001 and thereafter, an
4 amount equal to the bonus depreciation deduction (30%
5 of the adjusted basis of the qualified property) taken
6 on the taxpayer's federal income tax return for the
7 taxable year under subsection (k) of Section 168 of the
8 Internal Revenue Code; and

9 (G-11) If the taxpayer reports a capital gain or
10 loss on the taxpayer's federal income tax return for
11 the taxable year based on a sale or transfer of
12 property for which the taxpayer was required in any
13 taxable year to make an addition modification under
14 subparagraph (G-10), then an amount equal to the
15 aggregate amount of the deductions taken in all taxable
16 years under subparagraph (R) with respect to that
17 property.

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

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

1 included in gross income under Section 78 of the
2 Internal Revenue Code) with respect to the stock of the
3 same person to whom the interest was paid, accrued, or
4 incurred.

5 This paragraph shall not apply to the following:

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

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

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

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

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

34 (iv) an item of interest paid, accrued, or
35 incurred, directly or indirectly, to a foreign
36 person if the taxpayer establishes by clear and

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

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

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

1 dividends caused a reduction to the addition
2 modification required under Section 203(c)(2)(G-12) of
3 this Act. As used in this subparagraph, the term
4 "intangible expenses and costs" includes: (1)
5 expenses, losses, and costs for or related to the
6 direct or indirect acquisition, use, maintenance or
7 management, ownership, sale, exchange, or any other
8 disposition of intangible property; (2) losses
9 incurred, directly or indirectly, from factoring
10 transactions or discounting transactions; (3) royalty,
11 patent, technical, and copyright fees; (4) licensing
12 fees; and (5) other similar expenses and costs. For
13 purposes of this subparagraph, "intangible property"
14 includes patents, patent applications, trade names,
15 trademarks, service marks, copyrights, mask works,
16 trade secrets, and similar types of intangible assets.

17 This paragraph shall not apply to the following:

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

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

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

34 (b) the transaction giving rise to the
35 intangible expense or cost between the
36 taxpayer and the foreign person did not have as

1 a principal purpose the avoidance of Illinois
2 income tax, and is paid pursuant to a contract
3 or agreement that reflects arm's-length terms;
4 or

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

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

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

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

36 (I) The valuation limitation amount;

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

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

15 (L) With the exception of any amounts subtracted
16 under subparagraph (K), an amount equal to the sum of
17 all amounts disallowed as deductions by (i) Sections
18 171(a) (2) and 265(a) (2) of the Internal Revenue Code,
19 as now or hereafter amended, and all amounts of
20 expenses allocable to interest and disallowed as
21 deductions by Section 265(1) of the Internal Revenue
22 Code of 1954, as now or hereafter amended; and (ii) for
23 taxable years ending on or after August 13, 1999,
24 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
25 the Internal Revenue Code; the provisions of this
26 subparagraph are exempt from the provisions of Section
27 250;

28 (M) An amount equal to those dividends included in
29 such total which were paid by a corporation which
30 conducts business operations in an Enterprise Zone or
31 zones created under the Illinois Enterprise Zone Act
32 and conducts substantially all of its operations in an
33 Enterprise Zone or Zones;

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

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

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

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

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

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

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

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

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

36 (S) If the taxpayer reports a capital gain or loss

1 on the taxpayer's federal income tax return for the
2 taxable year based on a sale or transfer of property
3 for which the taxpayer was required in any taxable year
4 to make an addition modification under subparagraph
5 (G-10), then an amount equal to that addition
6 modification.

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

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

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

1 indirectly, to the same foreign person; and

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

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

22 (d) Partnerships.

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

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

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

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

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

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

8 (D-5) For taxable years 2001 and thereafter, an
9 amount equal to the bonus depreciation deduction (30%
10 of the adjusted basis of the qualified property) taken
11 on the taxpayer's federal income tax return for the
12 taxable year under subsection (k) of Section 168 of the
13 Internal Revenue Code;

14 (D-6) If the taxpayer reports a capital gain or
15 loss on the taxpayer's federal income tax return for
16 the taxable year based on a sale or transfer of
17 property for which the taxpayer was required in any
18 taxable year to make an addition modification under
19 subparagraph (D-5), then an amount equal to the
20 aggregate amount of the deductions taken in all taxable
21 years under subparagraph (O) with respect to that
22 property.

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

26 (D-7) For taxable years ending on or after December
27 31, 2004, an amount equal to the amount otherwise
28 allowed as a deduction in computing base income for
29 interest paid, accrued, or incurred, directly or
30 indirectly, to a foreign person who would be a member
31 of the same unitary business group but for the fact the
32 foreign person's business activity outside the United
33 States is 80% or more of the foreign person's total
34 business activity. The addition modification required
35 by this subparagraph shall be reduced to the extent
36 that dividends were included in base income of the

1 unitary group for the same taxable year and received by
2 the taxpayer or by a member of the taxpayer's unitary
3 business group (including amounts included in gross
4 income pursuant to Sections 951 through 964 of the
5 Internal Revenue Code and amounts included in gross
6 income under Section 78 of the Internal Revenue Code)
7 with respect to the stock of the same person to whom
8 the interest was paid, accrued, or incurred.

9 This paragraph shall not apply to the following:

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

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

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

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

32 (iii) the taxpayer can establish, based on
33 clear and convincing evidence, that the interest
34 paid, accrued, or incurred relates to a contract or
35 agreement entered into at arm's-length rates and
36 terms and the principal purpose for the payment is

1 not federal or Illinois tax avoidance; or

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

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

19 (D-8) For taxable years ending on or after December
20 31, 2004, an amount equal to the amount of intangible
21 expenses and costs otherwise allowed as a deduction in
22 computing base income, and that were paid, accrued, or
23 incurred, directly or indirectly, to a foreign person
24 who would be a member of the same unitary business
25 group but for the fact that the foreign person's
26 business activity outside the United States is 80% or
27 more of that person's total business activity. The
28 addition modification required by this subparagraph
29 shall be reduced to the extent that dividends were
30 included in base income of the unitary group for the
31 same taxable year and received by the taxpayer or by a
32 member of the taxpayer's unitary business group
33 (including amounts included in gross income pursuant
34 to Sections 951 through 964 of the Internal Revenue
35 Code and amounts included in gross income under Section
36 78 of the Internal Revenue Code) with respect to the

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

21 This paragraph shall not apply to the following:

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

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

34 (a) the foreign person during the same
35 taxable year paid, accrued, or incurred, the
36 intangible expense or cost to a person that is

1 not a related member, and

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

9 (iii) any item of intangible expense or cost
10 paid, accrued, or incurred, directly or
11 indirectly, from a transaction with a foreign
12 person if the taxpayer establishes by clear and
13 convincing evidence, that the adjustments are
14 unreasonable; or if the taxpayer and the Director
15 agree in writing to the application or use of an
16 alternative method of apportionment under Section
17 304(f);

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

27 and by deducting from the total so obtained the following
28 amounts:

29 (E) The valuation limitation amount;

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

33 (G) An amount equal to all amounts included in
34 taxable income as modified by subparagraphs (A), (B),
35 (C) and (D) which are exempt from taxation by this
36 State either by reason of its statutes or Constitution

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

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

13 (I) An amount equal to all amounts of income
14 distributable to an entity subject to the Personal
15 Property Tax Replacement Income Tax imposed by
16 subsections (c) and (d) of Section 201 of this Act
17 including amounts distributable to organizations
18 exempt from federal income tax by reason of Section
19 501(a) of the Internal Revenue Code;

20 (J) With the exception of any amounts subtracted
21 under subparagraph (G), an amount equal to the sum of
22 all amounts disallowed as deductions by (i) Sections
23 171(a) (2), and 265(2) of the Internal Revenue Code of
24 1954, as now or hereafter amended, and all amounts of
25 expenses allocable to interest and disallowed as
26 deductions by Section 265(1) of the Internal Revenue
27 Code, as now or hereafter amended; and (ii) for taxable
28 years ending on or after August 13, 1999, Sections
29 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the
30 Internal Revenue Code; the provisions of this
31 subparagraph are exempt from the provisions of Section
32 250;

33 (K) An amount equal to those dividends included in
34 such total which were paid by a corporation which
35 conducts business operations in an Enterprise Zone or
36 zones created under the Illinois Enterprise Zone Act,

1 enacted by the 82nd General Assembly, and conducts
2 substantially all of its operations in an Enterprise
3 Zone or Zones;

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

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

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

21 (O) For taxable years 2001 and thereafter, for the
22 taxable year in which the bonus depreciation deduction
23 (30% of the adjusted basis of the qualified property)
24 is taken on the taxpayer's federal income tax return
25 under subsection (k) of Section 168 of the Internal
26 Revenue Code and for each applicable taxable year
27 thereafter, an amount equal to "x", where:

28 (1) "y" equals the amount of the depreciation
29 deduction taken for the taxable year on the
30 taxpayer's federal income tax return on property
31 for which the bonus depreciation deduction (30% of
32 the adjusted basis of the qualified property) was
33 taken in any year under subsection (k) of Section
34 168 of the Internal Revenue Code, but not including
35 the bonus depreciation deduction; and

36 (2) "x" equals "y" multiplied by 30 and then

1 divided by 70 (or "y" multiplied by 0.429).

2 The aggregate amount deducted under this
3 subparagraph in all taxable years for any one piece of
4 property may not exceed the amount of the bonus
5 depreciation deduction (30% of the adjusted basis of
6 the qualified property) taken on that property on the
7 taxpayer's federal income tax return under subsection
8 (k) of Section 168 of the Internal Revenue Code;

9 (P) If the taxpayer reports a capital gain or loss
10 on the taxpayer's federal income tax return for the
11 taxable year based on a sale or transfer of property
12 for which the taxpayer was required in any taxable year
13 to make an addition modification under subparagraph
14 (D-5), then an amount equal to that addition
15 modification.

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

19 (Q) The amount of (i) any interest income (net of
20 the deductions allocable thereto) taken into account
21 for the taxable year with respect to a transaction with
22 a taxpayer that is required to make an addition
23 modification with respect to such transaction under
24 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
25 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
26 the amount of such addition modification and (ii) any
27 income from intangible property (net of the deductions
28 allocable thereto) taken into account for the taxable
29 year with respect to a transaction with a taxpayer that
30 is required to make an addition modification with
31 respect to such transaction under Section
32 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
33 203(d)(2)(D-8), but not to exceed the amount of such
34 addition modification;

35 (R) An amount equal to the interest income taken
36 into account for the taxable year (net of the

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

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

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

25 (1) In general. Subject to the provisions of paragraph
26 (2) and subsection (b) (3), for purposes of this Section
27 and Section 803(e), a taxpayer's gross income, adjusted
28 gross income, or taxable income for the taxable year shall
29 mean the amount of gross income, adjusted gross income or
30 taxable income properly reportable for federal income tax
31 purposes for the taxable year under the provisions of the
32 Internal Revenue Code. Taxable income may be less than
33 zero. However, for taxable years ending on or after
34 December 31, 1986, net operating loss carryforwards from
35 taxable years ending prior to December 31, 1986, may not

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

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

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

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

36 (C) Regulated investment companies. In the case of

1 a regulated investment company subject to the tax
2 imposed by Section 852 of the Internal Revenue Code,
3 investment company taxable income;

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

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

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

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

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

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

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

29 (f) Valuation limitation amount.

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

33 (A) The sum of the pre-August 1, 1969 appreciation
34 amounts (to the extent consisting of gain reportable
35 under the provisions of Section 1245 or 1250 of the
36 Internal Revenue Code) for all property in respect of

1 which such gain was reported for the taxable year; plus

2 (B) The lesser of (i) the sum of the pre-August 1,
3 1969 appreciation amounts (to the extent consisting of
4 capital gain) for all property in respect of which such
5 gain was reported for federal income tax purposes for
6 the taxable year, or (ii) the net capital gain for the
7 taxable year, reduced in either case by any amount of
8 such gain included in the amount determined under
9 subsection (a) (2) (F) or (c) (2) (H).

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

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

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

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

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

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

13 (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,
14 eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;
15 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.
16 7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)

17 (35 ILCS 5/247 new)

18 Sec. 247. Family Tax Credit.

19 (a) For taxable years beginning after January 1, 2005, each
20 taxpayer who is a natural person or is a married couple filing
21 jointly that reports total annual income of \$47,000 or less
22 (the "eligibility cap"), is entitled to a refundable tax credit
23 known as the Family Tax Credit in those amounts identified in
24 subsection (b) of this Section. The Family Tax Credit may be
25 claimed only upon proper filing of an Illinois State income tax
26 return by an eligible taxpayer. The eligibility cap shall
27 increase for each tax year beginning after December 31, 2005,
28 by an amount equal to the percentage increase, if any, in the
29 Consumer Price Index ("CPI") published by the U.S. Bureau of
30 Labor Statistics for the immediately preceding tax year,
31 multiplied by the eligibility cap for that immediately
32 preceding tax year.

33 (b) The amount of Family Tax Credit an eligible taxpayer
34 may claim will vary in amount, based on the following table:

1

<u>Total Annual Income</u>	<u>Credit</u>
<u>Less than \$16,000</u>	<u>\$200</u>
<u>\$16,000 or more but less than \$29,000</u>	<u>\$350</u>
<u>\$29,000 or more but less than \$47,001</u>	<u>\$230</u>

6 The dollar ranges of Total Annual Income identified in each
7 category, as well as the value of the credit for that category,
8 shall increase in each tax year beginning after December 31,
9 2005 by an amount equal to the applicable Total Annual Income
10 category or credit amount, as the case may be, increased by the
11 percentage increase, if any, in the CPI for the immediately
12 preceding tax year. The Department of Revenue shall update the
13 Total Annual Income category and credit amounts for the Family
14 Tax Credit annually and distribute the updated table with the
15 Illinois personal income tax returns.

16 (c) If the amount of the Family Tax Credit exceeds the
17 income tax liability of an eligible taxpayer, the State shall
18 refund to the taxpayer the difference between the Family Tax
19 Credit and the taxpayer's income tax liability.

20 (d) This Section is exempt from the provisions of Section
21 250 of this Act.

22 Section 15. The Use Tax Act is amended by changing Section
23 2 as follows:

24 (35 ILCS 105/2) (from Ch. 120, par. 439.2)

25 Sec. 2. "Use" means the exercise by any person of any right
26 or power over tangible personal property incident to the
27 ownership of that property, except that it does not include the
28 sale of such property in any form as tangible personal property
29 in the regular course of business to the extent that such
30 property is not first subjected to a use for which it was
31 purchased, and does not include the use of such property by its
32 owner for demonstration purposes: Provided that the property

1 purchased is deemed to be purchased for the purpose of resale,
2 despite first being used, to the extent to which it is resold
3 as an ingredient of an intentionally produced product or
4 by-product of manufacturing. "Use" does not mean the
5 demonstration use or interim use of tangible personal property
6 by a retailer before he sells that tangible personal property.
7 For watercraft or aircraft, if the period of demonstration use
8 or interim use by the retailer exceeds 18 months, the retailer
9 shall pay on the retailers' original cost price the tax imposed
10 by this Act, and no credit for that tax is permitted if the
11 watercraft or aircraft is subsequently sold by the retailer.
12 "Use" does not mean the physical incorporation of tangible
13 personal property, to the extent not first subjected to a use
14 for which it was purchased, as an ingredient or constituent,
15 into other tangible personal property (a) which is sold in the
16 regular course of business or (b) which the person
17 incorporating such ingredient or constituent therein has
18 undertaken at the time of such purchase to cause to be
19 transported in interstate commerce to destinations outside the
20 State of Illinois: Provided that the property purchased is
21 deemed to be purchased for the purpose of resale, despite first
22 being used, to the extent to which it is resold as an
23 ingredient of an intentionally produced product or by-product
24 of manufacturing.

25 "Watercraft" means a Class 2, Class 3, or Class 4
26 watercraft as defined in Section 3-2 of the Boat Registration
27 and Safety Act, a personal watercraft, or any boat equipped
28 with an inboard motor.

29 "Purchase at retail" means the acquisition of the ownership
30 of or title to tangible personal property through a sale at
31 retail.

32 "Purchaser" means anyone who, through a sale at retail,
33 acquires the ownership of tangible personal property for a
34 valuable consideration.

35 "Sale at retail" means any transfer of the ownership of or
36 title to tangible personal property to a purchaser, for the

1 purpose of use, and not for the purpose of resale in any form
2 as tangible personal property to the extent not first subjected
3 to a use for which it was purchased, for a valuable
4 consideration: Provided that the property purchased is deemed
5 to be purchased for the purpose of resale, despite first being
6 used, to the extent to which it is resold as an ingredient of
7 an intentionally produced product or by-product of
8 manufacturing. For this purpose, slag produced as an incident
9 to manufacturing pig iron or steel and sold is considered to be
10 an intentionally produced by-product of manufacturing. "Sale
11 at retail" includes any such transfer made for resale unless
12 made in compliance with Section 2c of the Retailers' Occupation
13 Tax Act, as incorporated by reference into Section 12 of this
14 Act. Transactions whereby the possession of the property is
15 transferred but the seller retains the title as security for
16 payment of the selling price are sales.

17 "Sale at retail" shall also be construed to include any
18 Illinois florist's sales transaction in which the purchase
19 order is received in Illinois by a florist and the sale is for
20 use or consumption, but the Illinois florist has a florist in
21 another state deliver the property to the purchaser or the
22 purchaser's donee in such other state.

23 Nonreusable tangible personal property that is used by
24 persons engaged in the business of operating a restaurant,
25 cafeteria, or drive-in is a sale for resale when it is
26 transferred to customers in the ordinary course of business as
27 part of the sale of food or beverages and is used to deliver,
28 package, or consume food or beverages, regardless of where
29 consumption of the food or beverages occurs. Examples of those
30 items include, but are not limited to nonreusable, paper and
31 plastic cups, plates, baskets, boxes, sleeves, buckets or other
32 containers, utensils, straws, placemats, napkins, doggie bags,
33 and wrapping or packaging materials that are transferred to
34 customers as part of the sale of food or beverages in the
35 ordinary course of business.

36 ~~The purchase, employment and transfer of such tangible~~

1 ~~personal property as newsprint and ink for the primary purpose~~
2 ~~of conveying news (with or without other information) is not a~~
3 ~~purchase, use or sale of tangible personal property.~~

4 "Selling price" means the consideration for a sale valued
5 in money whether received in money or otherwise, including
6 cash, credits, property other than as hereinafter provided, and
7 services, but not including the value of or credit given for
8 traded-in tangible personal property where the item that is
9 traded-in is of like kind and character as that which is being
10 sold, and shall be determined without any deduction on account
11 of the cost of the property sold, the cost of materials used,
12 labor or service cost or any other expense whatsoever, but does
13 not include interest or finance charges which appear as
14 separate items on the bill of sale or sales contract nor
15 charges that are added to prices by sellers on account of the
16 seller's tax liability under the "Retailers' Occupation Tax
17 Act", or on account of the seller's duty to collect, from the
18 purchaser, the tax that is imposed by this Act, or on account
19 of the seller's tax liability under Section 8-11-1 of the
20 Illinois Municipal Code, as heretofore and hereafter amended,
21 or on account of the seller's tax liability under the "County
22 Retailers' Occupation Tax Act". Effective December 1, 1985,
23 "selling price" shall include charges that are added to prices
24 by sellers on account of the seller's tax liability under the
25 Cigarette Tax Act, on account of the seller's duty to collect,
26 from the purchaser, the tax imposed under the Cigarette Use Tax
27 Act, and on account of the seller's duty to collect, from the
28 purchaser, any cigarette tax imposed by a home rule unit.

29 The phrase "like kind and character" shall be liberally
30 construed (including but not limited to any form of motor
31 vehicle for any form of motor vehicle, or any kind of farm or
32 agricultural implement for any other kind of farm or
33 agricultural implement), while not including a kind of item
34 which, if sold at retail by that retailer, would be exempt from
35 retailers' occupation tax and use tax as an isolated or
36 occasional sale.

1 "Department" means the Department of Revenue.

2 "Person" means any natural individual, firm, partnership,
3 association, joint stock company, joint adventure, public or
4 private corporation, limited liability company, or a receiver,
5 executor, trustee, guardian or other representative appointed
6 by order of any court.

7 "Retailer" means and includes every person engaged in the
8 business of making sales at retail as defined in this Section.

9 A person who holds himself or herself out as being engaged
10 (or who habitually engages) in selling tangible personal
11 property at retail is a retailer hereunder with respect to such
12 sales (and not primarily in a service occupation)
13 notwithstanding the fact that such person designs and produces
14 such tangible personal property on special order for the
15 purchaser and in such a way as to render the property of value
16 only to such purchaser, if such tangible personal property so
17 produced on special order serves substantially the same
18 function as stock or standard items of tangible personal
19 property that are sold at retail.

20 A person whose activities are organized and conducted
21 primarily as a not-for-profit service enterprise, and who
22 engages in selling tangible personal property at retail
23 (whether to the public or merely to members and their guests)
24 is a retailer with respect to such transactions, excepting only
25 a person organized and operated exclusively for charitable,
26 religious or educational purposes either (1), to the extent of
27 sales by such person to its members, students, patients or
28 inmates of tangible personal property to be used primarily for
29 the purposes of such person, or (2), to the extent of sales by
30 such person of tangible personal property which is not sold or
31 offered for sale by persons organized for profit. The selling
32 of school books and school supplies by schools at retail to
33 students is not "primarily for the purposes of" the school
34 which does such selling. This paragraph does not apply to nor
35 subject to taxation occasional dinners, social or similar
36 activities of a person organized and operated exclusively for

1 charitable, religious or educational purposes, whether or not
2 such activities are open to the public.

3 A person who is the recipient of a grant or contract under
4 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and
5 serves meals to participants in the federal Nutrition Program
6 for the Elderly in return for contributions established in
7 amount by the individual participant pursuant to a schedule of
8 suggested fees as provided for in the federal Act is not a
9 retailer under this Act with respect to such transactions.

10 Persons who engage in the business of transferring tangible
11 personal property upon the redemption of trading stamps are
12 retailers hereunder when engaged in such business.

13 The isolated or occasional sale of tangible personal
14 property at retail by a person who does not hold himself out as
15 being engaged (or who does not habitually engage) in selling
16 such tangible personal property at retail or a sale through a
17 bulk vending machine does not make such person a retailer
18 hereunder. However, any person who is engaged in a business
19 which is not subject to the tax imposed by the "Retailers'
20 Occupation Tax Act" because of involving the sale of or a
21 contract to sell real estate or a construction contract to
22 improve real estate, but who, in the course of conducting such
23 business, transfers tangible personal property to users or
24 consumers in the finished form in which it was purchased, and
25 which does not become real estate, under any provision of a
26 construction contract or real estate sale or real estate sales
27 agreement entered into with some other person arising out of or
28 because of such nontaxable business, is a retailer to the
29 extent of the value of the tangible personal property so
30 transferred. If, in such transaction, a separate charge is made
31 for the tangible personal property so transferred, the value of
32 such property, for the purposes of this Act, is the amount so
33 separately charged, but not less than the cost of such property
34 to the transferor; if no separate charge is made, the value of
35 such property, for the purposes of this Act, is the cost to the
36 transferor of such tangible personal property.

1 "Retailer maintaining a place of business in this State",
2 or any like term, means and includes any of the following
3 retailers:

4 1. A retailer having or maintaining within this State,
5 directly or by a subsidiary, an office, distribution house,
6 sales house, warehouse or other place of business, or any
7 agent or other representative operating within this State
8 under the authority of the retailer or its subsidiary,
9 irrespective of whether such place of business or agent or
10 other representative is located here permanently or
11 temporarily, or whether such retailer or subsidiary is
12 licensed to do business in this State. However, the
13 ownership of property that is located at the premises of a
14 printer with which the retailer has contracted for printing
15 and that consists of the final printed product, property
16 that becomes a part of the final printed product, or copy
17 from which the printed product is produced shall not result
18 in the retailer being deemed to have or maintain an office,
19 distribution house, sales house, warehouse, or other place
20 of business within this State.

21 2. A retailer soliciting orders for tangible personal
22 property by means of a telecommunication or television
23 shopping system (which utilizes toll free numbers) which is
24 intended by the retailer to be broadcast by cable
25 television or other means of broadcasting, to consumers
26 located in this State.

27 3. A retailer, pursuant to a contract with a
28 broadcaster or publisher located in this State, soliciting
29 orders for tangible personal property by means of
30 advertising which is disseminated primarily to consumers
31 located in this State and only secondarily to bordering
32 jurisdictions.

33 4. A retailer soliciting orders for tangible personal
34 property by mail if the solicitations are substantial and
35 recurring and if the retailer benefits from any banking,
36 financing, debt collection, telecommunication, or

1 marketing activities occurring in this State or benefits
2 from the location in this State of authorized installation,
3 servicing, or repair facilities.

4 5. A retailer that is owned or controlled by the same
5 interests that own or control any retailer engaging in
6 business in the same or similar line of business in this
7 State.

8 6. A retailer having a franchisee or licensee operating
9 under its trade name if the franchisee or licensee is
10 required to collect the tax under this Section.

11 7. A retailer, pursuant to a contract with a cable
12 television operator located in this State, soliciting
13 orders for tangible personal property by means of
14 advertising which is transmitted or distributed over a
15 cable television system in this State.

16 8. A retailer engaging in activities in Illinois, which
17 activities in the state in which the retail business
18 engaging in such activities is located would constitute
19 maintaining a place of business in that state.

20 "Bulk vending machine" means a vending machine, containing
21 unsorted confections, nuts, toys, or other items designed
22 primarily to be used or played with by children which, when a
23 coin or coins of a denomination not larger than \$0.50 are
24 inserted, are dispensed in equal portions, at random and
25 without selection by the customer.

26 (Source: P.A. 92-213, eff. 1-1-02.)

27 (35 ILCS 105/3-50 rep.) (from Ch. 120, par. 439.3-50)

28 Section 17. The Use Tax Act is amended by repealing Section
29 3-50.

30 Section 20. The Service Use Tax Act is amended by changing
31 Section 2 as follows:

32 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

33 Sec. 2. "Use" means the exercise by any person of any right

1 or power over tangible personal property incident to the
2 ownership of that property, but does not include the sale or
3 use for demonstration by him of that property in any form as
4 tangible personal property in the regular course of business.
5 "Use" does not mean the interim use of tangible personal
6 property nor the physical incorporation of tangible personal
7 property, as an ingredient or constituent, into other tangible
8 personal property, (a) which is sold in the regular course of
9 business or (b) which the person incorporating such ingredient
10 or constituent therein has undertaken at the time of such
11 purchase to cause to be transported in interstate commerce to
12 destinations outside the State of Illinois.

13 "Purchased from a serviceman" means the acquisition of the
14 ownership of, or title to, tangible personal property through a
15 sale of service.

16 "Purchaser" means any person who, through a sale of
17 service, acquires the ownership of, or title to, any tangible
18 personal property.

19 "Cost price" means the consideration paid by the serviceman
20 for a purchase valued in money, whether paid in money or
21 otherwise, including cash, credits and services, and shall be
22 determined without any deduction on account of the supplier's
23 cost of the property sold or on account of any other expense
24 incurred by the supplier. When a serviceman contracts out part
25 or all of the services required in his sale of service, it
26 shall be presumed that the cost price to the serviceman of the
27 property transferred to him or her by his or her subcontractor
28 is equal to 50% of the subcontractor's charges to the
29 serviceman in the absence of proof of the consideration paid by
30 the subcontractor for the purchase of such property.

31 "Selling price" means the consideration for a sale valued
32 in money whether received in money or otherwise, including
33 cash, credits and service, and shall be determined without any
34 deduction on account of the serviceman's cost of the property
35 sold, the cost of materials used, labor or service cost or any
36 other expense whatsoever, but does not include interest or

1 finance charges which appear as separate items on the bill of
2 sale or sales contract nor charges that are added to prices by
3 sellers on account of the seller's duty to collect, from the
4 purchaser, the tax that is imposed by this Act.

5 "Department" means the Department of Revenue.

6 "Person" means any natural individual, firm, partnership,
7 association, joint stock company, joint venture, public or
8 private corporation, limited liability company, and any
9 receiver, executor, trustee, guardian or other representative
10 appointed by order of any court.

11 "Sale of service" means any transaction except:

12 (1) a retail sale of tangible personal property taxable
13 under the Retailers' Occupation Tax Act or under the Use
14 Tax Act.

15 (2) a sale of tangible personal property for the
16 purpose of resale made in compliance with Section 2c of the
17 Retailers' Occupation Tax Act.

18 (3) except as hereinafter provided, a sale or transfer
19 of tangible personal property as an incident to the
20 rendering of service for or by any governmental body, or
21 for or by any corporation, society, association,
22 foundation or institution organized and operated
23 exclusively for charitable, religious or educational
24 purposes or any not-for-profit corporation, society,
25 association, foundation, institution or organization which
26 has no compensated officers or employees and which is
27 organized and operated primarily for the recreation of
28 persons 55 years of age or older. A limited liability
29 company may qualify for the exemption under this paragraph
30 only if the limited liability company is organized and
31 operated exclusively for educational purposes.

32 (4) a sale or transfer of tangible personal property as
33 an incident to the rendering of service for interstate
34 carriers for hire for use as rolling stock moving in
35 interstate commerce or by lessors under a lease of one year
36 or longer, executed or in effect at the time of purchase of

1 personal property, to interstate carriers for hire for use
2 as rolling stock moving in interstate commerce so long as
3 so used by such interstate carriers for hire, and equipment
4 operated by a telecommunications provider, licensed as a
5 common carrier by the Federal Communications Commission,
6 which is permanently installed in or affixed to aircraft
7 moving in interstate commerce.

8 (4a) a sale or transfer of tangible personal property
9 as an incident to the rendering of service for owners,
10 lessors, or shippers of tangible personal property which is
11 utilized by interstate carriers for hire for use as rolling
12 stock moving in interstate commerce so long as so used by
13 interstate carriers for hire, and equipment operated by a
14 telecommunications provider, licensed as a common carrier
15 by the Federal Communications Commission, which is
16 permanently installed in or affixed to aircraft moving in
17 interstate commerce.

18 (4a-5) on and after July 1, 2003 and through June 30,
19 2004, a sale or transfer of a motor vehicle of the second
20 division with a gross vehicle weight in excess of 8,000
21 pounds as an incident to the rendering of service if that
22 motor vehicle is subject to the commercial distribution fee
23 imposed under Section 3-815.1 of the Illinois Vehicle Code.
24 Beginning on July 1, 2004 and through June 30, 2005, the
25 use in this State of motor vehicles of the second division:
26 (i) with a gross vehicle weight rating in excess of 8,000
27 pounds; (ii) that are subject to the commercial
28 distribution fee imposed under Section 3-815.1 of the
29 Illinois Vehicle Code; and (iii) that are primarily used
30 for commercial purposes. Through June 30, 2005, this
31 exemption applies to repair and replacement parts added
32 after the initial purchase of such a motor vehicle if that
33 motor vehicle is used in a manner that would qualify for
34 the rolling stock exemption otherwise provided for in this
35 Act. For purposes of this paragraph, "used for commercial
36 purposes" means the transportation of persons or property

1 in furtherance of any commercial or industrial enterprise
2 whether for-hire or not.

3 (5) a sale or transfer of machinery and equipment used
4 primarily in the process of the manufacturing or
5 assembling, either in an existing, an expanded or a new
6 manufacturing facility, of tangible personal property for
7 wholesale or retail sale or lease, whether such sale or
8 lease is made directly by the manufacturer or by some other
9 person, whether the materials used in the process are owned
10 by the manufacturer or some other person, or whether such
11 sale or lease is made apart from or as an incident to the
12 seller's engaging in a service occupation and the
13 applicable tax is a Service Use Tax or Service Occupation
14 Tax, rather than Use Tax or Retailers' Occupation Tax.

15 (5a) the repairing, reconditioning or remodeling, for
16 a common carrier by rail, of tangible personal property
17 which belongs to such carrier for hire, and as to which
18 such carrier receives the physical possession of the
19 repaired, reconditioned or remodeled item of tangible
20 personal property in Illinois, and which such carrier
21 transports, or shares with another common carrier in the
22 transportation of such property, out of Illinois on a
23 standard uniform bill of lading showing the person who
24 repaired, reconditioned or remodeled the property to a
25 destination outside Illinois, for use outside Illinois.

26 (5b) a sale or transfer of tangible personal property
27 which is produced by the seller thereof on special order in
28 such a way as to have made the applicable tax the Service
29 Occupation Tax or the Service Use Tax, rather than the
30 Retailers' Occupation Tax or the Use Tax, for an interstate
31 carrier by rail which receives the physical possession of
32 such property in Illinois, and which transports such
33 property, or shares with another common carrier in the
34 transportation of such property, out of Illinois on a
35 standard uniform bill of lading showing the seller of the
36 property as the shipper or consignor of such property to a

1 destination outside Illinois, for use outside Illinois.

2 (6) until July 1, 2003, a sale or transfer of
3 distillation machinery and equipment, sold as a unit or kit
4 and assembled or installed by the retailer, which machinery
5 and equipment is certified by the user to be used only for
6 the production of ethyl alcohol that will be used for
7 consumption as motor fuel or as a component of motor fuel
8 for the personal use of such user and not subject to sale
9 or resale.

10 (7) at the election of any serviceman not required to
11 be otherwise registered as a retailer under Section 2a of
12 the Retailers' Occupation Tax Act, made for each fiscal
13 year sales of service in which the aggregate annual cost
14 price of tangible personal property transferred as an
15 incident to the sales of service is less than 35%, or 75%
16 in the case of servicemen transferring prescription drugs
17 or servicemen engaged in graphic arts production, of the
18 aggregate annual total gross receipts from all sales of
19 service. The purchase of such tangible personal property by
20 the serviceman shall be subject to tax under the Retailers'
21 Occupation Tax Act and the Use Tax Act. However, if a
22 primary serviceman who has made the election described in
23 this paragraph subcontracts service work to a secondary
24 serviceman who has also made the election described in this
25 paragraph, the primary serviceman does not incur a Use Tax
26 liability if the secondary serviceman (i) has paid or will
27 pay Use Tax on his or her cost price of any tangible
28 personal property transferred to the primary serviceman
29 and (ii) certifies that fact in writing to the primary
30 serviceman.

31 Tangible personal property transferred incident to the
32 completion of a maintenance agreement is exempt from the tax
33 imposed pursuant to this Act.

34 ~~Exemption (5) also includes machinery and equipment used in~~
35 ~~the general maintenance or repair of such exempt machinery and~~
36 ~~equipment or for in house manufacture of exempt machinery and~~

1 ~~equipment. For the purposes of exemption (5), each of these~~
2 ~~terms shall have the following meanings: (1) "manufacturing~~
3 ~~process" shall mean the production of any article of tangible~~
4 ~~personal property, whether such article is a finished product~~
5 ~~or an article for use in the process of manufacturing or~~
6 ~~assembling a different article of tangible personal property,~~
7 ~~by procedures commonly regarded as manufacturing, processing,~~
8 ~~fabricating, or refining which changes some existing material~~
9 ~~or materials into a material with a different form, use or~~
10 ~~name. In relation to a recognized integrated business composed~~
11 ~~of a series of operations which collectively constitute~~
12 ~~manufacturing, or individually constitute manufacturing~~
13 ~~operations, the manufacturing process shall be deemed to~~
14 ~~commence with the first operation or stage of production in the~~
15 ~~series, and shall not be deemed to end until the completion of~~
16 ~~the final product in the last operation or stage of production~~
17 ~~in the series; and further, for purposes of exemption (5),~~
18 ~~photoprocessing is deemed to be a manufacturing process of~~
19 ~~tangible personal property for wholesale or retail sale; (2)~~
20 ~~"assembling process" shall mean the production of any article~~
21 ~~of tangible personal property, whether such article is a~~
22 ~~finished product or an article for use in the process of~~
23 ~~manufacturing or assembling a different article of tangible~~
24 ~~personal property, by the combination of existing materials in~~
25 ~~a manner commonly regarded as assembling which results in a~~
26 ~~material of a different form, use or name; (3) "machinery"~~
27 ~~shall mean major mechanical machines or major components of~~
28 ~~such machines contributing to a manufacturing or assembling~~
29 ~~process; and (4) "equipment" shall include any independent~~
30 ~~device or tool separate from any machinery but essential to an~~
31 ~~integrated manufacturing or assembly process; including~~
32 ~~computers used primarily in a manufacturer's computer assisted~~
33 ~~design, computer assisted manufacturing (CAD/CAM) system; or~~
34 ~~any subunit or assembly comprising a component of any machinery~~
35 ~~or auxiliary, adjunct or attachment parts of machinery, such as~~
36 ~~tools, dies, jigs, fixtures, patterns and molds; or any parts~~

1 ~~which require periodic replacement in the course of normal~~
2 ~~operation; but shall not include hand tools. Equipment includes~~
3 ~~chemicals or chemicals acting as catalysts but only if the~~
4 ~~chemicals or chemicals acting as catalysts effect a direct and~~
5 ~~immediate change upon a product being manufactured or assembled~~
6 ~~for wholesale or retail sale or lease. The purchaser of such~~
7 ~~machinery and equipment who has an active resale registration~~
8 ~~number shall furnish such number to the seller at the time of~~
9 ~~purchase. The user of such machinery and equipment and tools~~
10 ~~without an active resale registration number shall prepare a~~
11 ~~certificate of exemption for each transaction stating facts~~
12 ~~establishing the exemption for that transaction, which~~
13 ~~certificate shall be available to the Department for inspection~~
14 ~~or audit. The Department shall prescribe the form of the~~
15 ~~certificate.~~

16 Any informal rulings, opinions or letters issued by the
17 Department in response to an inquiry or request for any opinion
18 from any person regarding the coverage and applicability of
19 exemption (5) to specific devices shall be published,
20 maintained as a public record, and made available for public
21 inspection and copying. If the informal ruling, opinion or
22 letter contains trade secrets or other confidential
23 information, where possible the Department shall delete such
24 information prior to publication. Whenever such informal
25 rulings, opinions, or letters contain any policy of general
26 applicability, the Department shall formulate and adopt such
27 policy as a rule in accordance with the provisions of the
28 Illinois Administrative Procedure Act.

29 On and after July 1, 1987, no entity otherwise eligible
30 under exemption (3) of this Section shall make tax free
31 purchases unless it has an active exemption identification
32 number issued by the Department.

33 ~~The purchase, employment and transfer of such tangible~~
34 ~~personal property as newsprint and ink for the primary purpose~~
35 ~~of conveying news (with or without other information) is not a~~
36 ~~purchase, use or sale of service or of tangible personal~~

1 ~~property within the meaning of this Act.~~

2 "Serviceman" means any person who is engaged in the
3 occupation of making sales of service.

4 "Sale at retail" means "sale at retail" as defined in the
5 Retailers' Occupation Tax Act.

6 "Supplier" means any person who makes sales of tangible
7 personal property to servicemen for the purpose of resale as an
8 incident to a sale of service.

9 "Serviceman maintaining a place of business in this State",
10 or any like term, means and includes any serviceman:

11 1. having or maintaining within this State, directly or
12 by a subsidiary, an office, distribution house, sales
13 house, warehouse or other place of business, or any agent
14 or other representative operating within this State under
15 the authority of the serviceman or its subsidiary,
16 irrespective of whether such place of business or agent or
17 other representative is located here permanently or
18 temporarily, or whether such serviceman or subsidiary is
19 licensed to do business in this State;

20 2. soliciting orders for tangible personal property by
21 means of a telecommunication or television shopping system
22 (which utilizes toll free numbers) which is intended by the
23 retailer to be broadcast by cable television or other means
24 of broadcasting, to consumers located in this State;

25 3. pursuant to a contract with a broadcaster or
26 publisher located in this State, soliciting orders for
27 tangible personal property by means of advertising which is
28 disseminated primarily to consumers located in this State
29 and only secondarily to bordering jurisdictions;

30 4. soliciting orders for tangible personal property by
31 mail if the solicitations are substantial and recurring and
32 if the retailer benefits from any banking, financing, debt
33 collection, telecommunication, or marketing activities
34 occurring in this State or benefits from the location in
35 this State of authorized installation, servicing, or
36 repair facilities;

1 5. being owned or controlled by the same interests
2 which own or control any retailer engaging in business in
3 the same or similar line of business in this State;

4 6. having a franchisee or licensee operating under its
5 trade name if the franchisee or licensee is required to
6 collect the tax under this Section;

7 7. pursuant to a contract with a cable television
8 operator located in this State, soliciting orders for
9 tangible personal property by means of advertising which is
10 transmitted or distributed over a cable television system
11 in this State; or

12 8. engaging in activities in Illinois, which
13 activities in the state in which the supply business
14 engaging in such activities is located would constitute
15 maintaining a place of business in that state.

16 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24,
17 eff. 6-20-03; 93-1033, eff. 9-3-04.)

18 Section 25. The Service Occupation Tax Act is amended by
19 changing Section 2 as follows:

20 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

21 Sec. 2. "Transfer" means any transfer of the title to
22 property or of the ownership of property whether or not the
23 transferor retains title as security for the payment of amounts
24 due him from the transferee.

25 "Cost Price" means the consideration paid by the serviceman
26 for a purchase valued in money, whether paid in money or
27 otherwise, including cash, credits and services, and shall be
28 determined without any deduction on account of the supplier's
29 cost of the property sold or on account of any other expense
30 incurred by the supplier. When a serviceman contracts out part
31 or all of the services required in his sale of service, it
32 shall be presumed that the cost price to the serviceman of the
33 property transferred to him by his or her subcontractor is
34 equal to 50% of the subcontractor's charges to the serviceman

1 in the absence of proof of the consideration paid by the
2 subcontractor for the purchase of such property.

3 "Department" means the Department of Revenue.

4 "Person" means any natural individual, firm, partnership,
5 association, joint stock company, joint venture, public or
6 private corporation, limited liability company, and any
7 receiver, executor, trustee, guardian or other representative
8 appointed by order of any court.

9 "Sale of Service" means any transaction except:

10 (a) A retail sale of tangible personal property taxable
11 under the Retailers' Occupation Tax Act or under the Use Tax
12 Act.

13 (b) A sale of tangible personal property for the purpose of
14 resale made in compliance with Section 2c of the Retailers'
15 Occupation Tax Act.

16 (c) Except as hereinafter provided, a sale or transfer of
17 tangible personal property as an incident to the rendering of
18 service for or by any governmental body or for or by any
19 corporation, society, association, foundation or institution
20 organized and operated exclusively for charitable, religious
21 or educational purposes or any not-for-profit corporation,
22 society, association, foundation, institution or organization
23 which has no compensated officers or employees and which is
24 organized and operated primarily for the recreation of persons
25 55 years of age or older. A limited liability company may
26 qualify for the exemption under this paragraph only if the
27 limited liability company is organized and operated
28 exclusively for educational purposes.

29 (d) A sale or transfer of tangible personal property as an
30 incident to the rendering of service for interstate carriers
31 for hire for use as rolling stock moving in interstate commerce
32 or lessors under leases of one year or longer, executed or in
33 effect at the time of purchase, to interstate carriers for hire
34 for use as rolling stock moving in interstate commerce, and
35 equipment operated by a telecommunications provider, licensed
36 as a common carrier by the Federal Communications Commission,

1 which is permanently installed in or affixed to aircraft moving
2 in interstate commerce.

3 (d-1) A sale or transfer of tangible personal property as
4 an incident to the rendering of service for owners, lessors or
5 shippers of tangible personal property which is utilized by
6 interstate carriers for hire for use as rolling stock moving in
7 interstate commerce, and equipment operated by a
8 telecommunications provider, licensed as a common carrier by
9 the Federal Communications Commission, which is permanently
10 installed in or affixed to aircraft moving in interstate
11 commerce.

12 (d-1.1) On and after July 1, 2003 and through June 30,
13 2004, a sale or transfer of a motor vehicle of the second
14 division with a gross vehicle weight in excess of 8,000 pounds
15 as an incident to the rendering of service if that motor
16 vehicle is subject to the commercial distribution fee imposed
17 under Section 3-815.1 of the Illinois Vehicle Code. Beginning
18 on July 1, 2004 and through June 30, 2005, the use in this
19 State of motor vehicles of the second division: (i) with a
20 gross vehicle weight rating in excess of 8,000 pounds; (ii)
21 that are subject to the commercial distribution fee imposed
22 under Section 3-815.1 of the Illinois Vehicle Code; and (iii)
23 that are primarily used for commercial purposes. Through June
24 30, 2005, this exemption applies to repair and replacement
25 parts added after the initial purchase of such a motor vehicle
26 if that motor vehicle is used in a manner that would qualify
27 for the rolling stock exemption otherwise provided for in this
28 Act. For purposes of this paragraph, "used for commercial
29 purposes" means the transportation of persons or property in
30 furtherance of any commercial or industrial enterprise whether
31 for-hire or not.

32 (d-2) The repairing, reconditioning or remodeling, for a
33 common carrier by rail, of tangible personal property which
34 belongs to such carrier for hire, and as to which such carrier
35 receives the physical possession of the repaired,
36 reconditioned or remodeled item of tangible personal property

1 in Illinois, and which such carrier transports, or shares with
2 another common carrier in the transportation of such property,
3 out of Illinois on a standard uniform bill of lading showing
4 the person who repaired, reconditioned or remodeled the
5 property as the shipper or consignor of such property to a
6 destination outside Illinois, for use outside Illinois.

7 (d-3) A sale or transfer of tangible personal property
8 which is produced by the seller thereof on special order in
9 such a way as to have made the applicable tax the Service
10 Occupation Tax or the Service Use Tax, rather than the
11 Retailers' Occupation Tax or the Use Tax, for an interstate
12 carrier by rail which receives the physical possession of such
13 property in Illinois, and which transports such property, or
14 shares with another common carrier in the transportation of
15 such property, out of Illinois on a standard uniform bill of
16 lading showing the seller of the property as the shipper or
17 consignor of such property to a destination outside Illinois,
18 for use outside Illinois.

19 (d-4) Until January 1, 1997, a sale, by a registered
20 serviceman paying tax under this Act to the Department, of
21 special order printed materials delivered outside Illinois and
22 which are not returned to this State, if delivery is made by
23 the seller or agent of the seller, including an agent who
24 causes the product to be delivered outside Illinois by a common
25 carrier or the U.S. postal service.

26 (e) A sale or transfer of machinery and equipment used
27 primarily in the process of the manufacturing or assembling,
28 either in an existing, an expanded or a new manufacturing
29 facility, of tangible personal property for wholesale or retail
30 sale or lease, whether such sale or lease is made directly by
31 the manufacturer or by some other person, whether the materials
32 used in the process are owned by the manufacturer or some other
33 person, or whether such sale or lease is made apart from or as
34 an incident to the seller's engaging in a service occupation
35 and the applicable tax is a Service Occupation Tax or Service
36 Use Tax, rather than Retailers' Occupation Tax or Use Tax.

1 (f) Until July 1, 2003, the sale or transfer of
2 distillation machinery and equipment, sold as a unit or kit and
3 assembled or installed by the retailer, which machinery and
4 equipment is certified by the user to be used only for the
5 production of ethyl alcohol that will be used for consumption
6 as motor fuel or as a component of motor fuel for the personal
7 use of such user and not subject to sale or resale.

8 (g) At the election of any serviceman not required to be
9 otherwise registered as a retailer under Section 2a of the
10 Retailers' Occupation Tax Act, made for each fiscal year sales
11 of service in which the aggregate annual cost price of tangible
12 personal property transferred as an incident to the sales of
13 service is less than 35% (75% in the case of servicemen
14 transferring prescription drugs or servicemen engaged in
15 graphic arts production) of the aggregate annual total gross
16 receipts from all sales of service. The purchase of such
17 tangible personal property by the serviceman shall be subject
18 to tax under the Retailers' Occupation Tax Act and the Use Tax
19 Act. However, if a primary serviceman who has made the election
20 described in this paragraph subcontracts service work to a
21 secondary serviceman who has also made the election described
22 in this paragraph, the primary serviceman does not incur a Use
23 Tax liability if the secondary serviceman (i) has paid or will
24 pay Use Tax on his or her cost price of any tangible personal
25 property transferred to the primary serviceman and (ii)
26 certifies that fact in writing to the primary serviceman.

27 Tangible personal property transferred incident to the
28 completion of a maintenance agreement is exempt from the tax
29 imposed pursuant to this Act.

30 ~~Exemption (c) also includes machinery and equipment used in~~
31 ~~the general maintenance or repair of such exempt machinery and~~
32 ~~equipment or for in-house manufacture of exempt machinery and~~
33 ~~equipment. For the purposes of exemption (c), each of these~~
34 ~~terms shall have the following meanings: (1) "manufacturing~~
35 ~~process" shall mean the production of any article of tangible~~
36 ~~personal property, whether such article is a finished product~~

1 ~~or an article for use in the process of manufacturing or~~
2 ~~assembling a different article of tangible personal property,~~
3 ~~by procedures commonly regarded as manufacturing, processing,~~
4 ~~fabricating, or refining which changes some existing material~~
5 ~~or materials into a material with a different form, use or~~
6 ~~name. In relation to a recognized integrated business composed~~
7 ~~of a series of operations which collectively constitute~~
8 ~~manufacturing, or individually constitute manufacturing~~
9 ~~operations, the manufacturing process shall be deemed to~~
10 ~~commence with the first operation or stage of production in the~~
11 ~~series, and shall not be deemed to end until the completion of~~
12 ~~the final product in the last operation or stage of production~~
13 ~~in the series; and further for purposes of exemption (e),~~
14 ~~photoprocessing is deemed to be a manufacturing process of~~
15 ~~tangible personal property for wholesale or retail sale; (2)~~
16 ~~"assembling process" shall mean the production of any article~~
17 ~~of tangible personal property, whether such article is a~~
18 ~~finished product or an article for use in the process of~~
19 ~~manufacturing or assembling a different article of tangible~~
20 ~~personal property, by the combination of existing materials in~~
21 ~~a manner commonly regarded as assembling which results in a~~
22 ~~material of a different form, use or name; (3) "machinery"~~
23 ~~shall mean major mechanical machines or major components of~~
24 ~~such machines contributing to a manufacturing or assembling~~
25 ~~process; and (4) "equipment" shall include any independent~~
26 ~~device or tool separate from any machinery but essential to an~~
27 ~~integrated manufacturing or assembly process; including~~
28 ~~computers used primarily in a manufacturer's computer assisted~~
29 ~~design, computer assisted manufacturing (CAD/CAM) system; or~~
30 ~~any subunit or assembly comprising a component of any machinery~~
31 ~~or auxiliary, adjunct or attachment parts of machinery, such as~~
32 ~~tools, dies, jigs, fixtures, patterns and molds; or any parts~~
33 ~~which require periodic replacement in the course of normal~~
34 ~~operation; but shall not include hand tools. Equipment includes~~
35 ~~chemicals or chemicals acting as catalysts but only if the~~
36 ~~chemicals or chemicals acting as catalysts effect a direct and~~

1 ~~immediate change upon a product being manufactured or assembled~~
2 ~~for wholesale or retail sale or lease. The purchaser of such~~
3 ~~machinery and equipment who has an active resale registration~~
4 ~~number shall furnish such number to the seller at the time of~~
5 ~~purchase. The purchaser of such machinery and equipment and~~
6 ~~tools without an active resale registration number shall~~
7 ~~furnish to the seller a certificate of exemption for each~~
8 ~~transaction stating facts establishing the exemption for that~~
9 ~~transaction, which certificate shall be available to the~~
10 ~~Department for inspection or audit.~~

11 Except as provided in Section 2d of this Act, the rolling
12 stock exemption applies to rolling stock used by an interstate
13 carrier for hire, even just between points in Illinois, if such
14 rolling stock transports, for hire, persons whose journeys or
15 property whose shipments originate or terminate outside
16 Illinois.

17 Any informal rulings, opinions or letters issued by the
18 Department in response to an inquiry or request for any opinion
19 from any person regarding the coverage and applicability of
20 exemption (e) to specific devices shall be published,
21 maintained as a public record, and made available for public
22 inspection and copying. If the informal ruling, opinion or
23 letter contains trade secrets or other confidential
24 information, where possible the Department shall delete such
25 information prior to publication. Whenever such informal
26 rulings, opinions, or letters contain any policy of general
27 applicability, the Department shall formulate and adopt such
28 policy as a rule in accordance with the provisions of the
29 Illinois Administrative Procedure Act.

30 On and after July 1, 1987, no entity otherwise eligible
31 under exemption (c) of this Section shall make tax free
32 purchases unless it has an active exemption identification
33 number issued by the Department.

34 "Serviceman" means any person who is engaged in the
35 occupation of making sales of service.

36 "Sale at Retail" means "sale at retail" as defined in the

1 Retailers' Occupation Tax Act.

2 "Supplier" means any person who makes sales of tangible
3 personal property to servicemen for the purpose of resale as an
4 incident to a sale of service.

5 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24,
6 eff. 6-20-03; 93-1033, eff. 9-3-04.)

7 Section 30. The Retailers' Occupation Tax Act is amended by
8 changing Sections 1 and 2-5 as follows:

9 (35 ILCS 120/1) (from Ch. 120, par. 440)

10 Sec. 1. Definitions. "Sale at retail" means any transfer of
11 the ownership of or title to tangible personal property to a
12 purchaser, for the purpose of use or consumption, and not for
13 the purpose of resale in any form as tangible personal property
14 to the extent not first subjected to a use for which it was
15 purchased, for a valuable consideration: Provided that the
16 property purchased is deemed to be purchased for the purpose of
17 resale, despite first being used, to the extent to which it is
18 resold as an ingredient of an intentionally produced product or
19 byproduct of manufacturing. For this purpose, slag produced as
20 an incident to manufacturing pig iron or steel and sold is
21 considered to be an intentionally produced byproduct of
22 manufacturing. Transactions whereby the possession of the
23 property is transferred but the seller retains the title as
24 security for payment of the selling price shall be deemed to be
25 sales.

26 "Sale at retail" shall be construed to include any transfer
27 of the ownership of or title to tangible personal property to a
28 purchaser, for use or consumption by any other person to whom
29 such purchaser may transfer the tangible personal property
30 without a valuable consideration, and to include any transfer,
31 whether made for or without a valuable consideration, for
32 resale in any form as tangible personal property unless made in
33 compliance with Section 2c of this Act.

34 Sales of tangible personal property, which property, to the

1 extent not first subjected to a use for which it was purchased,
2 as an ingredient or constituent, goes into and forms a part of
3 tangible personal property subsequently the subject of a "Sale
4 at retail", are not sales at retail as defined in this Act:
5 Provided that the property purchased is deemed to be purchased
6 for the purpose of resale, despite first being used, to the
7 extent to which it is resold as an ingredient of an
8 intentionally produced product or byproduct of manufacturing.

9 "Sale at retail" shall be construed to include all of the
10 following services, as enumerated in the North American
11 Industry Classification System Manual (NAICS), 1997, prepared
12 by the United States Office of Management and Budget:

13 (1) Specialized good warehousing and storage
14 (4931902).

15 (2) Household goods warehousing and storage (4931901).

16 (3) Marinas (7131901).

17 (4) Travel arrangement reservation services (5615).

18 (5) Consumer electronics repair and maintenance
19 (811211).

20 (6) Personal and household goods.

21 (7) Carpet and upholstery cleaning services (56174).

22 (8) Dating services (8129902).

23 (9) Hair, nail, and skin care (81211).

24 (10) Other personal services other than hair, nail,
25 facial, or nonpermanent makeup services (81219).

26 (11) Dry cleaning and laundry, except coin-operated
27 (81232).

28 (12) Consumer goods rental (5322).

29 (13) General goods rental (5323).

30 (14) Diet and weight reducing services (812191).

31 (15) Investigation services (561611).

32 (16) Bail bonding (8129901).

33 (17) Telephone answering services (561421).

34 (18) Photographic studios, portrait (541921).

35 (19) Linen supply (812331).

36 (20) Industrial launderers (812332).

- 1 (21) Interior design services (54141).
- 2 (22) Computer systems design and related services
3 (5415).
- 4 (23) Credit bureaus (56145).
- 5 (24) Collection agencies (56144).
- 6 (25) Other business services, including copy shops
7 (561439).
- 8 (26) Automotive repair and maintenance (8111).
- 9 (27) Parking lots and garages (81293).
- 10 (28) Motor vehicle towing (48841).
- 11 (29) Racetracks (711212).
- 12 (30) Amusement parks and arcades (7131).
- 13 (31) Bowling Centers (71395).
- 14 (32) Cable and other program distribution (51322).
- 15 (33) Circuses (7111901).
- 16 (34) Coin operated amusement devices, except slots
17 (7139905).
- 18 (35) Golf courses and country clubs (71391).
- 19 (36) Fitness and recreational sports centers (711211).
- 20 (37) Sports teams and clubs (711211).
- 21 (38) Performing arts companies (7111).
- 22 (39) Miniature golf courses (7139904).
- 23 (40) Scenic and sightseeing transportation (487).
- 24 (41) Limousine services (48532).
- 25 (42) Unscheduled chartered passenger air
26 transportation (481211).
- 27 (43) Motion picture theaters, except drive-in theaters
28 (512131).
- 29 (44) Drive-in motion picture theaters (512132).

30 "Sale at retail" shall be construed to include any Illinois
31 florist's sales transaction in which the purchase order is
32 received in Illinois by a florist and the sale is for use or
33 consumption, but the Illinois florist has a florist in another
34 state deliver the property to the purchaser or the purchaser's
35 donee in such other state.

36 Nonreusable tangible personal property that is used by

1 persons engaged in the business of operating a restaurant,
2 cafeteria, or drive-in is a sale for resale when it is
3 transferred to customers in the ordinary course of business as
4 part of the sale of food or beverages and is used to deliver,
5 package, or consume food or beverages, regardless of where
6 consumption of the food or beverages occurs. Examples of those
7 items include, but are not limited to nonreusable, paper and
8 plastic cups, plates, baskets, boxes, sleeves, buckets or other
9 containers, utensils, straws, placemats, napkins, doggie bags,
10 and wrapping or packaging materials that are transferred to
11 customers as part of the sale of food or beverages in the
12 ordinary course of business.

13 ~~The purchase, employment and transfer of such tangible~~
14 ~~personal property as newsprint and ink for the primary purpose~~
15 ~~of conveying news (with or without other information) is not a~~
16 ~~purchase, use or sale of tangible personal property.~~

17 A person whose activities are organized and conducted
18 primarily as a not-for-profit service enterprise, and who
19 engages in selling tangible personal property at retail
20 (whether to the public or merely to members and their guests)
21 is engaged in the business of selling tangible personal
22 property at retail with respect to such transactions, excepting
23 only a person organized and operated exclusively for
24 charitable, religious or educational purposes either (1), to
25 the extent of sales by such person to its members, students,
26 patients or inmates of tangible personal property to be used
27 primarily for the purposes of such person, or (2), to the
28 extent of sales by such person of tangible personal property
29 which is not sold or offered for sale by persons organized for
30 profit. The selling of school books and school supplies by
31 schools at retail to students is not "primarily for the
32 purposes of" the school which does such selling. The provisions
33 of this paragraph shall not apply to nor subject to taxation
34 occasional dinners, socials or similar activities of a person
35 organized and operated exclusively for charitable, religious
36 or educational purposes, whether or not such activities are

1 open to the public.

2 A person who is the recipient of a grant or contract under
3 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and
4 serves meals to participants in the federal Nutrition Program
5 for the Elderly in return for contributions established in
6 amount by the individual participant pursuant to a schedule of
7 suggested fees as provided for in the federal Act is not
8 engaged in the business of selling tangible personal property
9 at retail with respect to such transactions.

10 "Purchaser" means anyone who, through a sale at retail,
11 acquires the ownership of or title to tangible personal
12 property for a valuable consideration.

13 "Reseller of motor fuel" means any person engaged in the
14 business of selling or delivering or transferring title of
15 motor fuel to another person other than for use or consumption.
16 No person shall act as a reseller of motor fuel within this
17 State without first being registered as a reseller pursuant to
18 Section 2c or a retailer pursuant to Section 2a.

19 "Selling price" or the "amount of sale" means the
20 consideration for a sale valued in money whether received in
21 money or otherwise, including cash, credits, property, other
22 than as hereinafter provided, and services, but not including
23 the value of or credit given for traded-in tangible personal
24 property where the item that is traded-in is of like kind and
25 character as that which is being sold, and shall be determined
26 without any deduction on account of the cost of the property
27 sold, the cost of materials used, labor or service cost or any
28 other expense whatsoever, but does not include charges that are
29 added to prices by sellers on account of the seller's tax
30 liability under this Act, or on account of the seller's duty to
31 collect, from the purchaser, the tax that is imposed by the Use
32 Tax Act, or on account of the seller's tax liability under
33 Section 8-11-1 of the Illinois Municipal Code, as heretofore
34 and hereafter amended, or on account of the seller's tax
35 liability under the County Retailers' Occupation Tax Act, or on
36 account of the seller's tax liability under the Home Rule

1 Municipal Soft Drink Retailers' Occupation Tax, or on account
2 of the seller's tax liability under any tax imposed under the
3 "Regional Transportation Authority Act", approved December 12,
4 1973. Effective December 1, 1985, "selling price" shall include
5 charges that are added to prices by sellers on account of the
6 seller's tax liability under the Cigarette Tax Act, on account
7 of the sellers' duty to collect, from the purchaser, the tax
8 imposed under the Cigarette Use Tax Act, and on account of the
9 seller's duty to collect, from the purchaser, any cigarette tax
10 imposed by a home rule unit.

11 The phrase "like kind and character" shall be liberally
12 construed (including but not limited to any form of motor
13 vehicle for any form of motor vehicle, or any kind of farm or
14 agricultural implement for any other kind of farm or
15 agricultural implement), while not including a kind of item
16 which, if sold at retail by that retailer, would be exempt from
17 retailers' occupation tax and use tax as an isolated or
18 occasional sale.

19 "Gross receipts" from the sales of tangible personal
20 property at retail means the total selling price or the amount
21 of such sales, as hereinbefore defined. In the case of charge
22 and time sales, the amount thereof shall be included only as
23 and when payments are received by the seller. Receipts or other
24 consideration derived by a seller from the sale, transfer or
25 assignment of accounts receivable to a wholly owned subsidiary
26 will not be deemed payments prior to the time the purchaser
27 makes payment on such accounts.

28 "Department" means the Department of Revenue.

29 "Person" means any natural individual, firm, partnership,
30 association, joint stock company, joint adventure, public or
31 private corporation, limited liability company, or a receiver,
32 executor, trustee, guardian or other representative appointed
33 by order of any court.

34 The isolated or occasional sale of tangible personal
35 property at retail by a person who does not hold himself out as
36 being engaged (or who does not habitually engage) in selling

1 such tangible personal property at retail, or a sale through a
2 bulk vending machine, does not constitute engaging in a
3 business of selling such tangible personal property at retail
4 within the meaning of this Act; provided that any person who is
5 engaged in a business which is not subject to the tax imposed
6 by this Act because of involving the sale of or a contract to
7 sell real estate or a construction contract to improve real
8 estate or a construction contract to engineer, install, and
9 maintain an integrated system of products, but who, in the
10 course of conducting such business, transfers tangible
11 personal property to users or consumers in the finished form in
12 which it was purchased, and which does not become real estate
13 or was not engineered and installed, under any provision of a
14 construction contract or real estate sale or real estate sales
15 agreement entered into with some other person arising out of or
16 because of such nontaxable business, is engaged in the business
17 of selling tangible personal property at retail to the extent
18 of the value of the tangible personal property so transferred.
19 If, in such a transaction, a separate charge is made for the
20 tangible personal property so transferred, the value of such
21 property, for the purpose of this Act, shall be the amount so
22 separately charged, but not less than the cost of such property
23 to the transferor; if no separate charge is made, the value of
24 such property, for the purposes of this Act, is the cost to the
25 transferor of such tangible personal property. Construction
26 contracts for the improvement of real estate consisting of
27 engineering, installation, and maintenance of voice, data,
28 video, security, and all telecommunication systems do not
29 constitute engaging in a business of selling tangible personal
30 property at retail within the meaning of this Act if they are
31 sold at one specified contract price.

32 A person who holds himself or herself out as being engaged
33 (or who habitually engages) in selling tangible personal
34 property at retail is a person engaged in the business of
35 selling tangible personal property at retail hereunder with
36 respect to such sales (and not primarily in a service

1 occupation) notwithstanding the fact that such person designs
2 and produces such tangible personal property on special order
3 for the purchaser and in such a way as to render the property
4 of value only to such purchaser, if such tangible personal
5 property so produced on special order serves substantially the
6 same function as stock or standard items of tangible personal
7 property that are sold at retail.

8 Persons who engage in the business of transferring tangible
9 personal property upon the redemption of trading stamps are
10 engaged in the business of selling such property at retail and
11 shall be liable for and shall pay the tax imposed by this Act
12 on the basis of the retail value of the property transferred
13 upon redemption of such stamps.

14 "Bulk vending machine" means a vending machine, containing
15 unsorted confections, nuts, toys, or other items designed
16 primarily to be used or played with by children which, when a
17 coin or coins of a denomination not larger than \$0.50 are
18 inserted, are dispensed in equal portions, at random and
19 without selection by the customer.

20 (Source: P.A. 92-213, eff. 1-1-02.)

21 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

22 Sec. 2-5. Exemptions. Gross receipts from proceeds from the
23 sale of the following tangible personal property are exempt
24 from the tax imposed by this Act:

25 (1) Farm chemicals.

26 (2) Farm machinery and equipment, both new and used,
27 including that manufactured on special order, certified by the
28 purchaser to be used primarily for production agriculture or
29 State or federal agricultural programs, including individual
30 replacement parts for the machinery and equipment, including
31 machinery and equipment purchased for lease, and including
32 implements of husbandry defined in Section 1-130 of the
33 Illinois Vehicle Code, farm machinery and agricultural
34 chemical and fertilizer spreaders, and nurse wagons required to
35 be registered under Section 3-809 of the Illinois Vehicle Code,

1 but excluding other motor vehicles required to be registered
2 under the Illinois Vehicle Code. Horticultural polyhouses or
3 hoop houses used for propagating, growing, or overwintering
4 plants shall be considered farm machinery and equipment under
5 this item (2). Agricultural chemical tender tanks and dry boxes
6 shall include units sold separately from a motor vehicle
7 required to be licensed and units sold mounted on a motor
8 vehicle required to be licensed, if the selling price of the
9 tender is separately stated.

10 Farm machinery and equipment shall include precision
11 farming equipment that is installed or purchased to be
12 installed on farm machinery and equipment including, but not
13 limited to, tractors, harvesters, sprayers, planters, seeders,
14 or spreaders. Precision farming equipment includes, but is not
15 limited to, soil testing sensors, computers, monitors,
16 software, global positioning and mapping systems, and other
17 such equipment.

18 Farm machinery and equipment also includes computers,
19 sensors, software, and related equipment used primarily in the
20 computer-assisted operation of production agriculture
21 facilities, equipment, and activities such as, but not limited
22 to, the collection, monitoring, and correlation of animal and
23 crop data for the purpose of formulating animal diets and
24 agricultural chemicals. This item (7) is exempt from the
25 provisions of Section 2-70.

26 (3) Until July 1, 2003, distillation machinery and
27 equipment, sold as a unit or kit, assembled or installed by the
28 retailer, certified by the user to be used only for the
29 production of ethyl alcohol that will be used for consumption
30 as motor fuel or as a component of motor fuel for the personal
31 use of the user, and not subject to sale or resale.

32 (4) Until July 1, 2003 and beginning again September 1,
33 2004, graphic arts machinery and equipment, including repair
34 and replacement parts, both new and used, and including that
35 manufactured on special order or purchased for lease, certified
36 by the purchaser to be used primarily for graphic arts

1 production. Equipment includes chemicals or chemicals acting
2 as catalysts but only if the chemicals or chemicals acting as
3 catalysts effect a direct and immediate change upon a graphic
4 arts product.

5 (5) (Blank). ~~A motor vehicle of the first division, a motor
6 vehicle of the second division that is a self-contained motor
7 vehicle designed or permanently converted to provide living
8 quarters for recreational, camping, or travel use, with direct
9 walk through access to the living quarters from the driver's
10 seat, or a motor vehicle of the second division that is of the
11 van configuration designed for the transportation of not less
12 than 7 nor more than 16 passengers, as defined in Section 1-146
13 of the Illinois Vehicle Code, that is used for automobile
14 renting, as defined in the Automobile Renting Occupation and
15 Use Tax Act.~~

16 (6) Personal property sold by a teacher-sponsored student
17 organization affiliated with an elementary or secondary school
18 located in Illinois.

19 (7) Until July 1, 2003, proceeds of that portion of the
20 selling price of a passenger car the sale of which is subject
21 to the Replacement Vehicle Tax.

22 (8) Personal property sold to an Illinois county fair
23 association for use in conducting, operating, or promoting the
24 county fair.

25 (9) Personal property sold to a not-for-profit arts or
26 cultural organization that establishes, by proof required by
27 the Department by rule, that it has received an exemption under
28 Section 501(c)(3) of the Internal Revenue Code and that is
29 organized and operated primarily for the presentation or
30 support of arts or cultural programming, activities, or
31 services. These organizations include, but are not limited to,
32 music and dramatic arts organizations such as symphony
33 orchestras and theatrical groups, arts and cultural service
34 organizations, local arts councils, visual arts organizations,
35 and media arts organizations. On and after the effective date
36 of this amendatory Act of the 92nd General Assembly, however,

1 an entity otherwise eligible for this exemption shall not make
2 tax-free purchases unless it has an active identification
3 number issued by the Department.

4 (10) Personal property sold by a corporation, society,
5 association, foundation, institution, or organization, other
6 than a limited liability company, that is organized and
7 operated as a not-for-profit service enterprise for the benefit
8 of persons 65 years of age or older if the personal property
9 was not purchased by the enterprise for the purpose of resale
10 by the enterprise.

11 (11) Personal property sold to a governmental body, to a
12 corporation, society, association, foundation, or institution
13 organized and operated exclusively for charitable, religious,
14 or educational purposes, or to a not-for-profit corporation,
15 society, association, foundation, institution, or organization
16 that has no compensated officers or employees and that is
17 organized and operated primarily for the recreation of persons
18 55 years of age or older. A limited liability company may
19 qualify for the exemption under this paragraph only if the
20 limited liability company is organized and operated
21 exclusively for educational purposes. On and after July 1,
22 1987, however, no entity otherwise eligible for this exemption
23 shall make tax-free purchases unless it has an active
24 identification number issued by the Department.

25 (12) Tangible personal property sold to interstate
26 carriers for hire for use as rolling stock moving in interstate
27 commerce or to lessors under leases of one year or longer
28 executed or in effect at the time of purchase by interstate
29 carriers for hire for use as rolling stock moving in interstate
30 commerce and equipment operated by a telecommunications
31 provider, licensed as a common carrier by the Federal
32 Communications Commission, which is permanently installed in
33 or affixed to aircraft moving in interstate commerce.

34 (12-5) On and after July 1, 2003 and through June 30, 2004,
35 motor vehicles of the second division with a gross vehicle
36 weight in excess of 8,000 pounds that are subject to the

1 commercial distribution fee imposed under Section 3-815.1 of
2 the Illinois Vehicle Code. Beginning on July 1, 2004 and
3 through June 30, 2005, the use in this State of motor vehicles
4 of the second division: (i) with a gross vehicle weight rating
5 in excess of 8,000 pounds; (ii) that are subject to the
6 commercial distribution fee imposed under Section 3-815.1 of
7 the Illinois Vehicle Code; and (iii) that are primarily used
8 for commercial purposes. Through June 30, 2005, this exemption
9 applies to repair and replacement parts added after the initial
10 purchase of such a motor vehicle if that motor vehicle is used
11 in a manner that would qualify for the rolling stock exemption
12 otherwise provided for in this Act. For purposes of this
13 paragraph, "used for commercial purposes" means the
14 transportation of persons or property in furtherance of any
15 commercial or industrial enterprise whether for-hire or not.

16 (13) Proceeds from sales to owners, lessors, or shippers of
17 tangible personal property that is utilized by interstate
18 carriers for hire for use as rolling stock moving in interstate
19 commerce and equipment operated by a telecommunications
20 provider, licensed as a common carrier by the Federal
21 Communications Commission, which is permanently installed in
22 or affixed to aircraft moving in interstate commerce.

23 (14) ~~(Blank). Machinery and equipment that will be used by~~
24 ~~the purchaser, or a lessee of the purchaser, primarily in the~~
25 ~~process of manufacturing or assembling tangible personal~~
26 ~~property for wholesale or retail sale or lease, whether the~~
27 ~~sale or lease is made directly by the manufacturer or by some~~
28 ~~other person, whether the materials used in the process are~~
29 ~~owned by the manufacturer or some other person, or whether the~~
30 ~~sale or lease is made apart from or as an incident to the~~
31 ~~seller's engaging in the service occupation of producing~~
32 ~~machines, tools, dies, jigs, patterns, gauges, or other similar~~
33 ~~items of no commercial value on special order for a particular~~
34 ~~purchaser.~~

35 (15) Proceeds of mandatory service charges separately
36 stated on customers' bills for purchase and consumption of food

1 and beverages, to the extent that the proceeds of the service
2 charge are in fact turned over as tips or as a substitute for
3 tips to the employees who participate directly in preparing,
4 serving, hosting or cleaning up the food or beverage function
5 with respect to which the service charge is imposed.

6 (16) Petroleum products sold to a purchaser if the seller
7 is prohibited by federal law from charging tax to the
8 purchaser.

9 (17) Tangible personal property sold to a common carrier by
10 rail or motor that receives the physical possession of the
11 property in Illinois and that transports the property, or
12 shares with another common carrier in the transportation of the
13 property, out of Illinois on a standard uniform bill of lading
14 showing the seller of the property as the shipper or consignor
15 of the property to a destination outside Illinois, for use
16 outside Illinois.

17 (18) Legal tender, currency, medallions, or gold or silver
18 coinage issued by the State of Illinois, the government of the
19 United States of America, or the government of any foreign
20 country, and bullion.

21 (19) Until July 1 2003, oil field exploration, drilling,
22 and production equipment, including (i) rigs and parts of rigs,
23 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
24 tubular goods, including casing and drill strings, (iii) pumps
25 and pump-jack units, (iv) storage tanks and flow lines, (v) any
26 individual replacement part for oil field exploration,
27 drilling, and production equipment, and (vi) machinery and
28 equipment purchased for lease; but excluding motor vehicles
29 required to be registered under the Illinois Vehicle Code.

30 (20) Photoprocessing machinery and equipment, including
31 repair and replacement parts, both new and used, including that
32 manufactured on special order, certified by the purchaser to be
33 used primarily for photoprocessing, and including
34 photoprocessing machinery and equipment purchased for lease.

35 (21) Until July 1, 2003, coal exploration, mining,
36 offhighway hauling, processing, maintenance, and reclamation

1 equipment, including replacement parts and equipment, and
2 including equipment purchased for lease, but excluding motor
3 vehicles required to be registered under the Illinois Vehicle
4 Code.

5 (22) Fuel and petroleum products sold to or used by an air
6 carrier, certified by the carrier to be used for consumption,
7 shipment, or storage in the conduct of its business as an air
8 common carrier, for a flight destined for or returning from a
9 location or locations outside the United States without regard
10 to previous or subsequent domestic stopovers.

11 (23) A transaction in which the purchase order is received
12 by a florist who is located outside Illinois, but who has a
13 florist located in Illinois deliver the property to the
14 purchaser or the purchaser's donee in Illinois.

15 (24) Fuel consumed or used in the operation of ships,
16 barges, or vessels that are used primarily in or for the
17 transportation of property or the conveyance of persons for
18 hire on rivers bordering on this State if the fuel is delivered
19 by the seller to the purchaser's barge, ship, or vessel while
20 it is afloat upon that bordering river.

21 (25) A motor vehicle sold in this State to a nonresident
22 even though the motor vehicle is delivered to the nonresident
23 in this State, if the motor vehicle is not to be titled in this
24 State, and if a drive-away permit is issued to the motor
25 vehicle as provided in Section 3-603 of the Illinois Vehicle
26 Code or if the nonresident purchaser has vehicle registration
27 plates to transfer to the motor vehicle upon returning to his
28 or her home state. The issuance of the drive-away permit or
29 having the out-of-state registration plates to be transferred
30 is prima facie evidence that the motor vehicle will not be
31 titled in this State.

32 (26) Semen used for artificial insemination of livestock
33 for direct agricultural production.

34 (27) Horses, or interests in horses, registered with and
35 meeting the requirements of any of the Arabian Horse Club
36 Registry of America, Appaloosa Horse Club, American Quarter

1 Horse Association, United States Trotting Association, or
2 Jockey Club, as appropriate, used for purposes of breeding or
3 racing for prizes.

4 (28) Computers and communications equipment utilized for
5 any hospital purpose and equipment used in the diagnosis,
6 analysis, or treatment of hospital patients sold to a lessor
7 who leases the equipment, under a lease of one year or longer
8 executed or in effect at the time of the purchase, to a
9 hospital that has been issued an active tax exemption
10 identification number by the Department under Section 1g of
11 this Act.

12 (29) Personal property sold to a lessor who leases the
13 property, under a lease of one year or longer executed or in
14 effect at the time of the purchase, to a governmental body that
15 has been issued an active tax exemption identification number
16 by the Department under Section 1g of this Act.

17 (30) Beginning with taxable years ending on or after
18 December 31, 1995 and ending with taxable years ending on or
19 before December 31, 2004, personal property that is donated for
20 disaster relief to be used in a State or federally declared
21 disaster area in Illinois or bordering Illinois by a
22 manufacturer or retailer that is registered in this State to a
23 corporation, society, association, foundation, or institution
24 that has been issued a sales tax exemption identification
25 number by the Department that assists victims of the disaster
26 who reside within the declared disaster area.

27 (31) Beginning with taxable years ending on or after
28 December 31, 1995 and ending with taxable years ending on or
29 before December 31, 2004, personal property that is used in the
30 performance of infrastructure repairs in this State, including
31 but not limited to municipal roads and streets, access roads,
32 bridges, sidewalks, waste disposal systems, water and sewer
33 line extensions, water distribution and purification
34 facilities, storm water drainage and retention facilities, and
35 sewage treatment facilities, resulting from a State or
36 federally declared disaster in Illinois or bordering Illinois

1 when such repairs are initiated on facilities located in the
2 declared disaster area within 6 months after the disaster.

3 (32) Beginning July 1, 1999, game or game birds sold at a
4 "game breeding and hunting preserve area" or an "exotic game
5 hunting area" as those terms are used in the Wildlife Code or
6 at a hunting enclosure approved through rules adopted by the
7 Department of Natural Resources. This paragraph is exempt from
8 the provisions of Section 2-70.

9 (33) A motor vehicle, as that term is defined in Section
10 1-146 of the Illinois Vehicle Code, that is donated to a
11 corporation, limited liability company, society, association,
12 foundation, or institution that is determined by the Department
13 to be organized and operated exclusively for educational
14 purposes. For purposes of this exemption, "a corporation,
15 limited liability company, society, association, foundation,
16 or institution organized and operated exclusively for
17 educational purposes" means all tax-supported public schools,
18 private schools that offer systematic instruction in useful
19 branches of learning by methods common to public schools and
20 that compare favorably in their scope and intensity with the
21 course of study presented in tax-supported schools, and
22 vocational or technical schools or institutes organized and
23 operated exclusively to provide a course of study of not less
24 than 6 weeks duration and designed to prepare individuals to
25 follow a trade or to pursue a manual, technical, mechanical,
26 industrial, business, or commercial occupation.

27 (34) Beginning January 1, 2000, personal property,
28 including food, purchased through fundraising events for the
29 benefit of a public or private elementary or secondary school,
30 a group of those schools, or one or more school districts if
31 the events are sponsored by an entity recognized by the school
32 district that consists primarily of volunteers and includes
33 parents and teachers of the school children. This paragraph
34 does not apply to fundraising events (i) for the benefit of
35 private home instruction or (ii) for which the fundraising
36 entity purchases the personal property sold at the events from

1 another individual or entity that sold the property for the
2 purpose of resale by the fundraising entity and that profits
3 from the sale to the fundraising entity. This paragraph is
4 exempt from the provisions of Section 2-70.

5 (35) Beginning January 1, 2000 and through December 31,
6 2001, new or used automatic vending machines that prepare and
7 serve hot food and beverages, including coffee, soup, and other
8 items, and replacement parts for these machines. Beginning
9 January 1, 2002 and through June 30, 2003, machines and parts
10 for machines used in commercial, coin-operated amusement and
11 vending business if a use or occupation tax is paid on the
12 gross receipts derived from the use of the commercial,
13 coin-operated amusement and vending machines. This paragraph
14 is exempt from the provisions of Section 2-70.

15 (35-5) Food for human consumption that is to be consumed
16 off the premises where it is sold (other than alcoholic
17 beverages, soft drinks, and food that has been prepared for
18 immediate consumption) and prescription and nonprescription
19 medicines, drugs, medical appliances, and insulin, urine
20 testing materials, syringes, and needles used by diabetics, for
21 human use, when purchased for use by a person receiving medical
22 assistance under Article 5 of the Illinois Public Aid Code who
23 resides in a licensed long-term care facility, as defined in
24 the Nursing Home Care Act.

25 (36) Beginning August 2, 2001, computers and
26 communications equipment utilized for any hospital purpose and
27 equipment used in the diagnosis, analysis, or treatment of
28 hospital patients sold to a lessor who leases the equipment,
29 under a lease of one year or longer executed or in effect at
30 the time of the purchase, to a hospital that has been issued an
31 active tax exemption identification number by the Department
32 under Section 1g of this Act. This paragraph is exempt from the
33 provisions of Section 2-70.

34 (37) Beginning August 2, 2001, personal property sold to a
35 lessor who leases the property, under a lease of one year or
36 longer executed or in effect at the time of the purchase, to a

1 governmental body that has been issued an active tax exemption
2 identification number by the Department under Section 1g of
3 this Act. This paragraph is exempt from the provisions of
4 Section 2-70.

5 (38) Beginning on January 1, 2002, tangible personal
6 property purchased from an Illinois retailer by a taxpayer
7 engaged in centralized purchasing activities in Illinois who
8 will, upon receipt of the property in Illinois, temporarily
9 store the property in Illinois (i) for the purpose of
10 subsequently transporting it outside this State for use or
11 consumption thereafter solely outside this State or (ii) for
12 the purpose of being processed, fabricated, or manufactured
13 into, attached to, or incorporated into other tangible personal
14 property to be transported outside this State and thereafter
15 used or consumed solely outside this State. The Director of
16 Revenue shall, pursuant to rules adopted in accordance with the
17 Illinois Administrative Procedure Act, issue a permit to any
18 taxpayer in good standing with the Department who is eligible
19 for the exemption under this paragraph (38). The permit issued
20 under this paragraph (38) shall authorize the holder, to the
21 extent and in the manner specified in the rules adopted under
22 this Act, to purchase tangible personal property from a
23 retailer exempt from the taxes imposed by this Act. Taxpayers
24 shall maintain all necessary books and records to substantiate
25 the use and consumption of all such tangible personal property
26 outside of the State of Illinois.

27 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
28 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
29 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.
30 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff.
31 7-30-04; 93-1033, eff. 9-3-04; revised 9-14-04.)

32 (35 ILCS 120/1d rep.) (from Ch. 120, par. 440d)

33 (35 ILCS 120/1f rep.) (from Ch. 120, par. 440f)

34 Section 33. The Retailers' Occupation Tax Act is amended by
35 repealing Sections 1d and 1f.

1 Section 35. The Property Tax Code is amended by changing
2 Sections 18-255, 20-15, and 21-30 and by adding Section 18-178
3 as follows:

4 (35 ILCS 200/18-178 new)

5 Sec. 18-178. Education tax abatement. Beginning with taxes
6 levied for 2003 (payable in 2004), the county clerk must
7 determine the final extension for educational purposes for all
8 taxable property in a school district located in the county or
9 for the taxable property of that part of a school district
10 located in the county, taking into account the maximum rate,
11 levy, and extension authorized under the Property Tax Extension
12 Limitation Law, the Truth in Taxation Law, and any other
13 statute. The county clerk must then abate the extension for
14 educational purposes for each school district or part of a
15 school district in the county by the amount of the minimum
16 property tax relief grant and, if applicable, the supplemental
17 property tax relief grant, certified to the county clerk for
18 that school district or part of a school district by the
19 Department of Revenue under Section 6z-65 of the State Finance
20 Act. When the final extension for educational purposes has been
21 determined and abated, the county clerk must notify the
22 Department of Revenue. The county clerk must determine the
23 prorated portion of the certified minimum and, if applicable,
24 supplemental property tax relief grants allocable to each
25 taxpayer in a given school district based on the tax rate for
26 educational purposes for that school district and the aggregate
27 relief granted to that school district. The extension amount
28 for educational purposes, as originally calculated before
29 abatement, is the official, final extension for educational
30 purposes and must be used for all other purposes, including
31 determining the maximum rate, levy, and extension authorized
32 under the Property Tax Extension Limitation Law, the Truth in
33 Taxation Law, and any other statute and the maximum amount of
34 tax anticipation warrants under Sections 17-16 and 34-23 of the

1 School Code.

2 (35 ILCS 200/18-255)

3 Sec. 18-255. Abstract of assessments and extensions. When
4 the collector's books are completed, the county clerk shall
5 make a complete statement of the assessment and extensions, in
6 conformity to the instructions of the Department. The clerk
7 shall certify the statement to the Department. Beginning with
8 the 2003 levy year, the Department shall require the statement
9 to include a separate listing of the amount of any extension
10 that is abated under Section 18-178 of this Act.

11 (Source: Laws 1943, vol. 1, p. 1136; P.A. 88-455.)

12 (35 ILCS 200/20-15)

13 Sec. 20-15. Information on bill or separate statement. The
14 amount of tax due and rates shown on the tax bill pursuant to
15 this Section shall be net of any abatement under Section
16 18-178. There shall be printed on each bill, or on a separate
17 slip which shall be mailed with the bill:

18 (a) a statement itemizing the rate at which taxes have
19 been extended for each of the taxing districts in the
20 county in whose district the property is located, and in
21 those counties utilizing electronic data processing
22 equipment the dollar amount of tax due from the person
23 assessed allocable to each of those taxing districts,
24 including a separate statement of the dollar amount of tax
25 due which is allocable to a tax levied under the Illinois
26 Local Library Act or to any other tax levied by a
27 municipality or township for public library purposes,

28 (b) a separate statement for each of the taxing
29 districts of the dollar amount of tax due which is
30 allocable to a tax levied under the Illinois Pension Code
31 or to any other tax levied by a municipality or township
32 for public pension or retirement purposes,

33 (c) the total tax rate,

34 (d) the total amount of tax due, ~~and~~

1 (e) the amount by which the total tax and the tax
2 allocable to each taxing district differs from the
3 taxpayer's last prior tax bill, and

4 (f) the amount of tax abated under Section 18-178
5 labeled "Portion of your Education Related Property Taxes
6 paid by the State of Illinois".

7 The county treasurer shall ensure that only those taxing
8 districts in which a parcel of property is located shall be
9 listed on the bill for that property.

10 In all counties the statement shall also provide:

11 (1) the property index number or other suitable
12 description,

13 (2) the assessment of the property,

14 (3) the equalization factors imposed by the county and
15 by the Department, and

16 (4) the equalized assessment resulting from the
17 application of the equalization factors to the basic
18 assessment.

19 In all counties which do not classify property for purposes
20 of taxation, for property on which a single family residence is
21 situated the statement shall also include a statement to
22 reflect the fair cash value determined for the property. In all
23 counties which classify property for purposes of taxation in
24 accordance with Section 4 of Article IX of the Illinois
25 Constitution, for parcels of residential property in the lowest
26 assessment classification the statement shall also include a
27 statement to reflect the fair cash value determined for the
28 property.

29 In all counties, the statement shall include information
30 that certain taxpayers may be eligible for the Senior Citizens
31 and Disabled Persons Property Tax Relief and Pharmaceutical
32 Assistance Act and that applications are available from the
33 Illinois Department of Revenue.

34 In counties which use the estimated or accelerated billing
35 methods, these statements shall only be provided with the final
36 installment of taxes due, except that the statement under item

1 (f) shall be included with both installments in those counties
2 under estimated or accelerated billing methods, the first
3 billing showing the amount deducted from the first installment,
4 and the final billing showing the total tax abated for the levy
5 year under Section 18-178. The provisions of this Section
6 create a mandatory statutory duty. They are not merely
7 directory or discretionary. The failure or neglect of the
8 collector to mail the bill, or the failure of the taxpayer to
9 receive the bill, shall not affect the validity of any tax, or
10 the liability for the payment of any tax.

11 (Source: P.A. 91-699, eff. 1-1-01.)

12 (35 ILCS 200/21-30)

13 Sec. 21-30. Accelerated billing. Except as provided in this
14 Section, Section 9-260, and Section 21-40, in counties with
15 3,000,000 or more inhabitants, by January 31 annually,
16 estimated tax bills setting out the first installment of
17 property taxes for the preceding year, payable in that year,
18 shall be prepared and mailed. The first installment of taxes on
19 the estimated tax bills shall be computed at 50% of the total
20 of each tax bill before the abatement of taxes under Section
21 18-178 for the preceding year, less an estimate of one-half of
22 the minimum school district property tax relief grant for the
23 current year determined based on information available. If,
24 prior to the preparation of the estimated tax bills, a
25 certificate of error has been either approved by a court on or
26 before November 30 of the preceding year or certified pursuant
27 to Section 14-15 on or before November 30 of the preceding
28 year, then the first installment of taxes on the estimated tax
29 bills shall be computed at 50% of the total taxes before the
30 abatement of taxes under Section 18-178 for the preceding year
31 as corrected by the certificate of error, less an estimate of
32 one-half of the minimum school district property tax relief
33 grant for the current year determined based on information
34 available. By June 30 annually, actual tax bills shall be
35 prepared and mailed. These bills shall set out total taxes due

1 and the amount of estimated taxes billed in the first
2 installment, and shall state the balance of taxes due for that
3 year as represented by the sum derived from subtracting the
4 amount of the first installment from the total taxes due for
5 that year.

6 The county board may provide by ordinance, in counties with
7 3,000,000 or more inhabitants, for taxes to be paid in 4
8 installments. For the levy year for which the ordinance is
9 first effective and each subsequent year, estimated tax bills
10 setting out the first, second, and third installment of taxes
11 for the preceding year, payable in that year, shall be prepared
12 and mailed not later than the date specified by ordinance. Each
13 installment on estimated tax bills shall be computed at 25% of
14 the total of each tax bill for the preceding year. By the date
15 specified in the ordinance, actual tax bills shall be prepared
16 and mailed. These bills shall set out total taxes due and the
17 amount of estimated taxes billed in the first, second, and
18 third installments and shall state the balance of taxes due for
19 that year as represented by the sum derived from subtracting
20 the amount of the estimated installments from the total taxes
21 due for that year.

22 The county board of any county with less than 3,000,000
23 inhabitants may, by ordinance or resolution, adopt an
24 accelerated method of tax billing. The county board may
25 subsequently rescind the ordinance or resolution and revert to
26 the method otherwise provided for in this Code.

27 Taxes levied on homestead property in which a member of the
28 National Guard or reserves of the armed forces of the United
29 States who was called to active duty on or after August 1,
30 1990, and who has an ownership interest shall not be deemed
31 delinquent and no interest shall accrue or be charged as a
32 penalty on such taxes due and payable in 1991 or 1992 until one
33 year after that member returns to civilian status.

34 (Source: P.A. 92-475, eff. 8-23-01; 93-560, eff. 8-20-03.)

35 Section 40. The Motor Fuel Tax Law is amended by changing

1 Section 2b as follows:

2 (35 ILCS 505/2b) (from Ch. 120, par. 418b)

3 Sec. 2b. In addition to the tax collection and reporting
4 responsibilities imposed elsewhere in this Act, a person who is
5 required to pay the tax imposed by Section 2a of this Act shall
6 pay the tax to the Department by return showing all fuel
7 purchased, acquired or received and sold, distributed or used
8 during the preceding calendar month including losses of fuel as
9 the result of evaporation or shrinkage due to temperature
10 variations, and such other reasonable information as the
11 Department may require. Losses of fuel as the result of
12 evaporation or shrinkage due to temperature variations may not
13 exceed 1% of the total gallons in storage at the beginning of
14 the month, plus the receipts of gallonage during the month,
15 minus the gallonage remaining in storage at the end of the
16 month. Any loss reported that is in excess of this amount shall
17 be subject to the tax imposed by Section 2a of this Law. On and
18 after July 1, 2001, for each 6-month period January through
19 June, net losses of fuel (for each category of fuel that is
20 required to be reported on a return) as the result of
21 evaporation or shrinkage due to temperature variations may not
22 exceed 1% of the total gallons in storage at the beginning of
23 each January, plus the receipts of gallonage each January
24 through June, minus the gallonage remaining in storage at the
25 end of each June. On and after July 1, 2001, for each 6-month
26 period July through December, net losses of fuel (for each
27 category of fuel that is required to be reported on a return)
28 as the result of evaporation or shrinkage due to temperature
29 variations may not exceed 1% of the total gallons in storage at
30 the beginning of each July, plus the receipts of gallonage each
31 July through December, minus the gallonage remaining in storage
32 at the end of each December. Any net loss reported that is in
33 excess of this amount shall be subject to the tax imposed by
34 Section 2a of this Law. For purposes of this Section, "net
35 loss" means the number of gallons gained through temperature

1 variations minus the number of gallons lost through temperature
2 variations or evaporation for each of the respective 6-month
3 periods.

4 The return shall be prescribed by the Department and shall
5 be filed between the 1st and 20th days of each calendar month.
6 The Department may, in its discretion, combine the returns
7 filed under this Section, Section 5, and Section 5a of this
8 Act. The return must be accompanied by appropriate
9 computer-generated magnetic media supporting schedule data in
10 the format required by the Department, unless, as provided by
11 rule, the Department grants an exception upon petition of a
12 taxpayer. ~~If the return is filed timely, the seller shall take~~
13 ~~a discount of 2% through June 30, 2003 and 1.75% thereafter~~
14 ~~which is allowed to reimburse the seller for the expenses~~
15 ~~incurred in keeping records, preparing and filing returns,~~
16 ~~collecting and remitting the tax and supplying data to the~~
17 ~~Department on request. The discount, however, shall be~~
18 ~~applicable only to the amount of payment which accompanies a~~
19 ~~return that is filed timely in accordance with this Section.~~
20 (Source: P.A. 92-30, eff. 7-1-01; 93-32, eff. 6-20-03.)

21 Section 45. The School Code is amended by changing Section
22 18-8.05 and by adding Sections 18-8.15 and 18-25 as follows:

23 (105 ILCS 5/18-8.05)

24 Sec. 18-8.05. Basis for apportionment of general State
25 financial aid and supplemental general State aid to the common
26 schools for the 1998-1999 and subsequent school years.

27 (A) General Provisions.

28 (1) The provisions of this Section apply to the 1998-1999
29 and subsequent school years. The system of general State
30 financial aid provided for in this Section is designed to
31 assure that, through a combination of State financial aid and
32 required local resources, the financial support provided each
33 pupil in Average Daily Attendance equals or exceeds a

1 prescribed per pupil Foundation Level. This formula approach
2 imputes a level of per pupil Available Local Resources and
3 provides for the basis to calculate a per pupil level of
4 general State financial aid that, when added to Available Local
5 Resources, equals or exceeds the Foundation Level. The amount
6 of per pupil general State financial aid for school districts,
7 in general, varies in inverse relation to Available Local
8 Resources. Per pupil amounts are based upon each school
9 district's Average Daily Attendance as that term is defined in
10 this Section.

11 (2) In addition to general State financial aid, school
12 districts with specified levels or concentrations of pupils
13 from low income households are eligible to receive supplemental
14 general State financial aid grants as provided pursuant to
15 subsection (H). The supplemental State aid grants provided for
16 school districts under subsection (H) shall be appropriated for
17 distribution to school districts as part of the same line item
18 in which the general State financial aid of school districts is
19 appropriated under this Section.

20 (3) To receive financial assistance under this Section,
21 school districts are required to file claims with the State
22 Board of Education, subject to the following requirements:

23 (a) Any school district which fails for any given
24 school year to maintain school as required by law, or to
25 maintain a recognized school is not eligible to file for
26 such school year any claim upon the Common School Fund. In
27 case of nonrecognition of one or more attendance centers in
28 a school district otherwise operating recognized schools,
29 the claim of the district shall be reduced in the
30 proportion which the Average Daily Attendance in the
31 attendance center or centers bear to the Average Daily
32 Attendance in the school district. A "recognized school"
33 means any public school which meets the standards as
34 established for recognition by the State Board of
35 Education. A school district or attendance center not
36 having recognition status at the end of a school term is

1 entitled to receive State aid payments due upon a legal
2 claim which was filed while it was recognized.

3 (b) School district claims filed under this Section are
4 subject to Sections 18-9, 18-10, and 18-12, except as
5 otherwise provided in this Section.

6 (c) If a school district operates a full year school
7 under Section 10-19.1, the general State aid to the school
8 district shall be determined by the State Board of
9 Education in accordance with this Section as near as may be
10 applicable.

11 (c-5) "ECI" means the Employment Cost Index as
12 published by the U.S. Bureau of Labor Statistics.

13 (d) (Blank).

14 (4) Except as provided in subsections (H) and (L), the
15 board of any district receiving any of the grants provided for
16 in this Section may apply those funds to any fund so received
17 for which that board is authorized to make expenditures by law.

18 School districts are not required to exert a minimum
19 Operating Tax Rate in order to qualify for assistance under
20 this Section.

21 (5) As used in this Section the following terms, when
22 capitalized, shall have the meaning ascribed herein:

23 (a) "Average Daily Attendance": A count of pupil
24 attendance in school, averaged as provided for in
25 subsection (C) and utilized in deriving per pupil financial
26 support levels.

27 (b) "Available Local Resources": A computation of
28 local financial support, calculated on the basis of Average
29 Daily Attendance and derived as provided pursuant to
30 subsection (D).

31 (c) "Corporate Personal Property Replacement Taxes":
32 Funds paid to local school districts pursuant to "An Act in
33 relation to the abolition of ad valorem personal property
34 tax and the replacement of revenues lost thereby, and
35 amending and repealing certain Acts and parts of Acts in
36 connection therewith", certified August 14, 1979, as

1 amended (Public Act 81-1st S.S.-1).

2 (d) "Foundation Level": A prescribed level of per pupil
3 financial support as provided for in subsection (B).

4 (e) "Operating Tax Rate": All school district property
5 taxes extended for all purposes, except Bond and Interest,
6 Summer School, Rent, Capital Improvement, and Vocational
7 Education Building purposes.

8 (B) Foundation Level.

9 (1) The Foundation Level is a figure established by the
10 State representing the minimum level of per pupil financial
11 support that should be available to provide for the basic
12 education of each pupil in Average Daily Attendance. As set
13 forth in this Section, each school district is assumed to exert
14 a sufficient local taxing effort such that, in combination with
15 the aggregate of general State financial aid provided the
16 district, an aggregate of State and local resources are
17 available to meet the basic education needs of pupils in the
18 district.

19 (2) For the 1998-1999 school year, the Foundation Level of
20 support is \$4,225. For the 1999-2000 school year, the
21 Foundation Level of support is \$4,325. For the 2000-2001 school
22 year, the Foundation Level of support is \$4,425. For the
23 2001-2002 school year and 2002-2003 school year, the Foundation
24 Level of support is \$4,560. For the 2003-2004 school year, the
25 Foundation Level of support is \$4,810.

26 (3) For the 2004-2005 school year and each school year
27 thereafter, the Foundation Level of support is \$4,964 ~~\$5,060~~ or
28 such greater amount as may be established by law by the General
29 Assembly.

30 (4) For the 2005-2006 school year, the Foundation Level of
31 support is \$5,952. For each school year thereafter, the
32 Foundation Level of support shall be equal to the Foundation
33 Level of support for the immediately preceding school year,
34 increased by the percentage increase, if any, in the ECI
35 published for the immediately preceding school year, or such

1 greater amount as may be established by law by the General
2 Assembly.

3 (C) Average Daily Attendance.

4 (1) For purposes of calculating general State aid pursuant
5 to subsection (E), an Average Daily Attendance figure shall be
6 utilized. The Average Daily Attendance figure for formula
7 calculation purposes shall be the monthly average of the actual
8 number of pupils in attendance of each school district, as
9 further averaged for the best 3 months of pupil attendance for
10 each school district. In compiling the figures for the number
11 of pupils in attendance, school districts and the State Board
12 of Education shall, for purposes of general State aid funding,
13 conform attendance figures to the requirements of subsection
14 (F).

15 (2) The Average Daily Attendance figures utilized in
16 subsection (E) shall be the requisite attendance data for the
17 school year immediately preceding the school year for which
18 general State aid is being calculated or the average of the
19 attendance data for the 3 preceding school years, whichever is
20 greater. The Average Daily Attendance figures utilized in
21 subsection (H) shall be the requisite attendance data for the
22 school year immediately preceding the school year for which
23 general State aid is being calculated.

24 (D) Available Local Resources.

25 (1) For purposes of calculating general State aid pursuant
26 to subsection (E), a representation of Available Local
27 Resources per pupil, as that term is defined and determined in
28 this subsection, shall be utilized. Available Local Resources
29 per pupil shall include a calculated dollar amount representing
30 local school district revenues from local property taxes and
31 from Corporate Personal Property Replacement Taxes, expressed
32 on the basis of pupils in Average Daily Attendance. Calculation
33 of Available Local Resources shall exclude any tax amnesty
34 funds received as a result of Public Act 93-26.

1 (2) In determining a school district's revenue from local
2 property taxes, the State Board of Education shall utilize the
3 equalized assessed valuation of all taxable property of each
4 school district as of September 30 of the previous year. The
5 equalized assessed valuation utilized shall be obtained and
6 determined as provided in subsection (G).

7 (3) For school districts maintaining grades kindergarten
8 through 12, local property tax revenues per pupil shall be
9 calculated as the product of the applicable equalized assessed
10 valuation for the district multiplied by 3.00%, and divided by
11 the district's Average Daily Attendance figure. For school
12 districts maintaining grades kindergarten through 8, local
13 property tax revenues per pupil shall be calculated as the
14 product of the applicable equalized assessed valuation for the
15 district multiplied by 2.30%, and divided by the district's
16 Average Daily Attendance figure. For school districts
17 maintaining grades 9 through 12, local property tax revenues
18 per pupil shall be the applicable equalized assessed valuation
19 of the district multiplied by 1.05%, and divided by the
20 district's Average Daily Attendance figure.

21 (4) The Corporate Personal Property Replacement Taxes paid
22 to each school district during the calendar year 2 years before
23 the calendar year in which a school year begins, divided by the
24 Average Daily Attendance figure for that district, shall be
25 added to the local property tax revenues per pupil as derived
26 by the application of the immediately preceding paragraph (3).
27 The sum of these per pupil figures for each school district
28 shall constitute Available Local Resources as that term is
29 utilized in subsection (E) in the calculation of general State
30 aid.

31 (E) Computation of General State Aid.

32 (1) For each school year, the amount of general State aid
33 allotted to a school district shall be computed by the State
34 Board of Education as provided in this subsection.

35 (2) For any school district for which Available Local

1 Resources per pupil is less than the product of 0.93 times the
2 Foundation Level, general State aid for that district shall be
3 calculated as an amount equal to the Foundation Level minus
4 Available Local Resources, multiplied by the Average Daily
5 Attendance of the school district.

6 (3) For any school district for which Available Local
7 Resources per pupil is equal to or greater than the product of
8 0.93 times the Foundation Level and less than the product of
9 1.75 times the Foundation Level, the general State aid per
10 pupil shall be a decimal proportion of the Foundation Level
11 derived using a linear algorithm. Under this linear algorithm,
12 the calculated general State aid per pupil shall decline in
13 direct linear fashion from 0.07 times the Foundation Level for
14 a school district with Available Local Resources equal to the
15 product of 0.93 times the Foundation Level, to 0.05 times the
16 Foundation Level for a school district with Available Local
17 Resources equal to the product of 1.75 times the Foundation
18 Level. The allocation of general State aid for school districts
19 subject to this paragraph 3 shall be the calculated general
20 State aid per pupil figure multiplied by the Average Daily
21 Attendance of the school district.

22 (4) For any school district for which Available Local
23 Resources per pupil equals or exceeds the product of 1.75 times
24 the Foundation Level, the general State aid for the school
25 district shall be calculated as the product of \$218 multiplied
26 by the Average Daily Attendance of the school district.

27 (5) The amount of general State aid allocated to a school
28 district for the 1999-2000 school year meeting the requirements
29 set forth in paragraph (4) of subsection (G) shall be increased
30 by an amount equal to the general State aid that would have
31 been received by the district for the 1998-1999 school year by
32 utilizing the Extension Limitation Equalized Assessed
33 Valuation as calculated in paragraph (4) of subsection (G) less
34 the general State aid allotted for the 1998-1999 school year.
35 This amount shall be deemed a one time increase, and shall not
36 affect any future general State aid allocations.

1 (F) Compilation of Average Daily Attendance.

2 (1) Each school district shall, by July 1 of each year,
3 submit to the State Board of Education, on forms prescribed by
4 the State Board of Education, attendance figures for the school
5 year that began in the preceding calendar year. The attendance
6 information so transmitted shall identify the average daily
7 attendance figures for each month of the school year. Beginning
8 with the general State aid claim form for the 2002-2003 school
9 year, districts shall calculate Average Daily Attendance as
10 provided in subdivisions (a), (b), and (c) of this paragraph
11 (1).

12 (a) In districts that do not hold year-round classes,
13 days of attendance in August shall be added to the month of
14 September and any days of attendance in June shall be added
15 to the month of May.

16 (b) In districts in which all buildings hold year-round
17 classes, days of attendance in July and August shall be
18 added to the month of September and any days of attendance
19 in June shall be added to the month of May.

20 (c) In districts in which some buildings, but not all,
21 hold year-round classes, for the non-year-round buildings,
22 days of attendance in August shall be added to the month of
23 September and any days of attendance in June shall be added
24 to the month of May. The average daily attendance for the
25 year-round buildings shall be computed as provided in
26 subdivision (b) of this paragraph (1). To calculate the
27 Average Daily Attendance for the district, the average
28 daily attendance for the year-round buildings shall be
29 multiplied by the days in session for the non-year-round
30 buildings for each month and added to the monthly
31 attendance of the non-year-round buildings.

32 Except as otherwise provided in this Section, days of
33 attendance by pupils shall be counted only for sessions of not
34 less than 5 clock hours of school work per day under direct
35 supervision of: (i) teachers, or (ii) non-teaching personnel or

1 volunteer personnel when engaging in non-teaching duties and
2 supervising in those instances specified in subsection (a) of
3 Section 10-22.34 and paragraph 10 of Section 34-18, with pupils
4 of legal school age and in kindergarten and grades 1 through
5 12.

6 Days of attendance by tuition pupils shall be accredited
7 only to the districts that pay the tuition to a recognized
8 school.

9 (2) Days of attendance by pupils of less than 5 clock hours
10 of school shall be subject to the following provisions in the
11 compilation of Average Daily Attendance.

12 (a) Pupils regularly enrolled in a public school for
13 only a part of the school day may be counted on the basis
14 of 1/6 day for every class hour of instruction of 40
15 minutes or more attended pursuant to such enrollment,
16 unless a pupil is enrolled in a block-schedule format of 80
17 minutes or more of instruction, in which case the pupil may
18 be counted on the basis of the proportion of minutes of
19 school work completed each day to the minimum number of
20 minutes that school work is required to be held that day.

21 (b) Days of attendance may be less than 5 clock hours
22 on the opening and closing of the school term, and upon the
23 first day of pupil attendance, if preceded by a day or days
24 utilized as an institute or teachers' workshop.

25 (c) A session of 4 or more clock hours may be counted
26 as a day of attendance upon certification by the regional
27 superintendent, and approved by the State Superintendent
28 of Education to the extent that the district has been
29 forced to use daily multiple sessions.

30 (d) A session of 3 or more clock hours may be counted
31 as a day of attendance (1) when the remainder of the school
32 day or at least 2 hours in the evening of that day is
33 utilized for an in-service training program for teachers,
34 up to a maximum of 5 days per school year of which a
35 maximum of 4 days of such 5 days may be used for
36 parent-teacher conferences, provided a district conducts

1 an in-service training program for teachers which has been
2 approved by the State Superintendent of Education; or, in
3 lieu of 4 such days, 2 full days may be used, in which
4 event each such day may be counted as a day of attendance;
5 and (2) when days in addition to those provided in item (1)
6 are scheduled by a school pursuant to its school
7 improvement plan adopted under Article 34 or its revised or
8 amended school improvement plan adopted under Article 2,
9 provided that (i) such sessions of 3 or more clock hours
10 are scheduled to occur at regular intervals, (ii) the
11 remainder of the school days in which such sessions occur
12 are utilized for in-service training programs or other
13 staff development activities for teachers, and (iii) a
14 sufficient number of minutes of school work under the
15 direct supervision of teachers are added to the school days
16 between such regularly scheduled sessions to accumulate
17 not less than the number of minutes by which such sessions
18 of 3 or more clock hours fall short of 5 clock hours. Any
19 full days used for the purposes of this paragraph shall not
20 be considered for computing average daily attendance. Days
21 scheduled for in-service training programs, staff
22 development activities, or parent-teacher conferences may
23 be scheduled separately for different grade levels and
24 different attendance centers of the district.

25 (e) A session of not less than one clock hour of
26 teaching hospitalized or homebound pupils on-site or by
27 telephone to the classroom may be counted as 1/2 day of
28 attendance, however these pupils must receive 4 or more
29 clock hours of instruction to be counted for a full day of
30 attendance.

31 (f) A session of at least 4 clock hours may be counted
32 as a day of attendance for first grade pupils, and pupils
33 in full day kindergartens, and a session of 2 or more hours
34 may be counted as 1/2 day of attendance by pupils in
35 kindergartens which provide only 1/2 day of attendance.

36 (g) For children with disabilities who are below the

1 age of 6 years and who cannot attend 2 or more clock hours
2 because of their disability or immaturity, a session of not
3 less than one clock hour may be counted as 1/2 day of
4 attendance; however for such children whose educational
5 needs so require a session of 4 or more clock hours may be
6 counted as a full day of attendance.

7 (h) A recognized kindergarten which provides for only
8 1/2 day of attendance by each pupil shall not have more
9 than 1/2 day of attendance counted in any one day. However,
10 kindergartens may count 2 1/2 days of attendance in any 5
11 consecutive school days. When a pupil attends such a
12 kindergarten for 2 half days on any one school day, the
13 pupil shall have the following day as a day absent from
14 school, unless the school district obtains permission in
15 writing from the State Superintendent of Education.
16 Attendance at kindergartens which provide for a full day of
17 attendance by each pupil shall be counted the same as
18 attendance by first grade pupils. Only the first year of
19 attendance in one kindergarten shall be counted, except in
20 case of children who entered the kindergarten in their
21 fifth year whose educational development requires a second
22 year of kindergarten as determined under the rules and
23 regulations of the State Board of Education.

24 (G) Equalized Assessed Valuation Data.

25 (1) For purposes of the calculation of Available Local
26 Resources required pursuant to subsection (D), the State Board
27 of Education shall secure from the Department of Revenue the
28 value as equalized or assessed by the Department of Revenue of
29 all taxable property of every school district, together with
30 (i) the applicable tax rate used in extending taxes for the
31 funds of the district as of September 30 of the previous year
32 and (ii) the limiting rate for all school districts subject to
33 property tax extension limitations as imposed under the
34 Property Tax Extension Limitation Law.

35 The Department of Revenue shall add to the equalized

1 assessed value of all taxable property of each school district
2 situated entirely or partially within a county that is or was
3 subject to the alternative general homestead exemption
4 provisions of Section 15-176 of the Property Tax Code (a) ~~(i)~~
5 an amount equal to the total amount by which the homestead
6 exemption allowed under Section 15-176 of the Property Tax Code
7 for real property situated in that school district exceeds the
8 total amount that would have been allowed in that school
9 district if the maximum reduction under Section 15-176 was (i)
10 \$4,500 in Cook County or \$3,500 in all other counties in tax
11 year 2003 or (ii) \$5,000 in all counties in tax year 2004 and
12 thereafter and (b) ~~(i)~~ an amount equal to the aggregate amount
13 for the taxable year of all additional exemptions under Section
14 15-175 of the Property Tax Code for owners with a household
15 income of \$30,000 or less. The county clerk of any county that
16 is or was subject to the alternative general homestead
17 exemption provisions of Section 15-176 of the Property Tax Code
18 shall annually calculate and certify to the Department of
19 Revenue for each school district all homestead exemption
20 amounts under Section 15-176 of the Property Tax Code and all
21 amounts of additional exemptions under Section 15-175 of the
22 Property Tax Code for owners with a household income of \$30,000
23 or less. It is the intent of this paragraph that if the general
24 homestead exemption for a parcel of property is determined
25 under Section 15-176 of the Property Tax Code rather than
26 Section 15-175, then the calculation of Available Local
27 Resources shall not be affected by the difference, if any,
28 between the amount of the general homestead exemption allowed
29 for that parcel of property under Section 15-176 of the
30 Property Tax Code and the amount that would have been allowed
31 had the general homestead exemption for that parcel of property
32 been determined under Section 15-175 of the Property Tax Code.
33 It is further the intent of this paragraph that if additional
34 exemptions are allowed under Section 15-175 of the Property Tax
35 Code for owners with a household income of less than \$30,000,
36 then the calculation of Available Local Resources shall not be

1 affected by the difference, if any, because of those additional
2 exemptions.

3 This equalized assessed valuation, as adjusted further by
4 the requirements of this subsection, shall be utilized in the
5 calculation of Available Local Resources.

6 (2) The equalized assessed valuation in paragraph (1) shall
7 be adjusted, as applicable, in the following manner:

8 (a) For the purposes of calculating State aid under
9 this Section, with respect to any part of a school district
10 within a redevelopment project area in respect to which a
11 municipality has adopted tax increment allocation
12 financing pursuant to the Tax Increment Allocation
13 Redevelopment Act, Sections 11-74.4-1 through 11-74.4-11
14 of the Illinois Municipal Code or the Industrial Jobs
15 Recovery Law, Sections 11-74.6-1 through 11-74.6-50 of the
16 Illinois Municipal Code, no part of the current equalized
17 assessed valuation of real property located in any such
18 project area which is attributable to an increase above the
19 total initial equalized assessed valuation of such
20 property shall be used as part of the equalized assessed
21 valuation of the district, until such time as all
22 redevelopment project costs have been paid, as provided in
23 Section 11-74.4-8 of the Tax Increment Allocation
24 Redevelopment Act or in Section 11-74.6-35 of the
25 Industrial Jobs Recovery Law. For the purpose of the
26 equalized assessed valuation of the district, the total
27 initial equalized assessed valuation or the current
28 equalized assessed valuation, whichever is lower, shall be
29 used until such time as all redevelopment project costs
30 have been paid.

31 (b) The real property equalized assessed valuation for
32 a school district shall be adjusted by subtracting from the
33 real property value as equalized or assessed by the
34 Department of Revenue for the district an amount computed
35 by dividing the amount of any abatement of taxes under
36 Section 18-170 of the Property Tax Code by 3.00% for a

1 district maintaining grades kindergarten through 12, by
2 2.30% for a district maintaining grades kindergarten
3 through 8, or by 1.05% for a district maintaining grades 9
4 through 12 and adjusted by an amount computed by dividing
5 the amount of any abatement of taxes under subsection (a)
6 of Section 18-165 of the Property Tax Code by the same
7 percentage rates for district type as specified in this
8 subparagraph (b).

9 (3) For the 1999-2000 school year and each school year
10 thereafter, if a school district meets all of the criteria of
11 this subsection (G) (3), the school district's Available Local
12 Resources shall be calculated under subsection (D) using the
13 district's Extension Limitation Equalized Assessed Valuation
14 as calculated under this subsection (G) (3).

15 For purposes of this subsection (G) (3) the following terms
16 shall have the following meanings:

17 "Budget Year": The school year for which general State
18 aid is calculated and awarded under subsection (E).

19 "Base Tax Year": The property tax levy year used to
20 calculate the Budget Year allocation of general State aid.

21 "Preceding Tax Year": The property tax levy year
22 immediately preceding the Base Tax Year.

23 "Base Tax Year's Tax Extension": The product of the
24 equalized assessed valuation utilized by the County Clerk
25 in the Base Tax Year multiplied by the limiting rate as
26 calculated by the County Clerk and defined in the Property
27 Tax Extension Limitation Law.

28 "Preceding Tax Year's Tax Extension": The product of
29 the equalized assessed valuation utilized by the County
30 Clerk in the Preceding Tax Year multiplied by the Operating
31 Tax Rate as defined in subsection (A).

32 "Extension Limitation Ratio": A numerical ratio,
33 certified by the County Clerk, in which the numerator is
34 the Base Tax Year's Tax Extension and the denominator is
35 the Preceding Tax Year's Tax Extension.

36 "Operating Tax Rate": The operating tax rate as defined

1 in subsection (A).

2 If a school district is subject to property tax extension
3 limitations as imposed under the Property Tax Extension
4 Limitation Law, the State Board of Education shall calculate
5 the Extension Limitation Equalized Assessed Valuation of that
6 district. For the 1999-2000 school year, the Extension
7 Limitation Equalized Assessed Valuation of a school district as
8 calculated by the State Board of Education shall be equal to
9 the product of the district's 1996 Equalized Assessed Valuation
10 and the district's Extension Limitation Ratio. For the
11 2000-2001 school year and each school year thereafter, the
12 Extension Limitation Equalized Assessed Valuation of a school
13 district as calculated by the State Board of Education shall be
14 equal to the product of the Equalized Assessed Valuation last
15 used in the calculation of general State aid and the district's
16 Extension Limitation Ratio. If the Extension Limitation
17 Equalized Assessed Valuation of a school district as calculated
18 under this subsection (G)(3) is less than the district's
19 equalized assessed valuation as calculated pursuant to
20 subsections (G)(1) and (G)(2), then for purposes of calculating
21 the district's general State aid for the Budget Year pursuant
22 to subsection (E), that Extension Limitation Equalized
23 Assessed Valuation shall be utilized to calculate the
24 district's Available Local Resources under subsection (D).

25 (4) For the purposes of calculating general State aid for
26 the 1999-2000 school year only, if a school district
27 experienced a triennial reassessment on the equalized assessed
28 valuation used in calculating its general State financial aid
29 apportionment for the 1998-1999 school year, the State Board of
30 Education shall calculate the Extension Limitation Equalized
31 Assessed Valuation that would have been used to calculate the
32 district's 1998-1999 general State aid. This amount shall equal
33 the product of the equalized assessed valuation used to
34 calculate general State aid for the 1997-1998 school year and
35 the district's Extension Limitation Ratio. If the Extension
36 Limitation Equalized Assessed Valuation of the school district

1 as calculated under this paragraph (4) is less than the
2 district's equalized assessed valuation utilized in
3 calculating the district's 1998-1999 general State aid
4 allocation, then for purposes of calculating the district's
5 general State aid pursuant to paragraph (5) of subsection (E),
6 that Extension Limitation Equalized Assessed Valuation shall
7 be utilized to calculate the district's Available Local
8 Resources.

9 (5) For school districts having a majority of their
10 equalized assessed valuation in any county except Cook, DuPage,
11 Kane, Lake, McHenry, or Will, if the amount of general State
12 aid allocated to the school district for the 1999-2000 school
13 year under the provisions of subsection (E), (H), and (J) of
14 this Section is less than the amount of general State aid
15 allocated to the district for the 1998-1999 school year under
16 these subsections, then the general State aid of the district
17 for the 1999-2000 school year only shall be increased by the
18 difference between these amounts. The total payments made under
19 this paragraph (5) shall not exceed \$14,000,000. Claims shall
20 be prorated if they exceed \$14,000,000.

21 (H) Supplemental General State Aid.

22 (1) In addition to the general State aid a school district
23 is allotted pursuant to subsection (E), qualifying school
24 districts shall receive a grant, paid in conjunction with a
25 district's payments of general State aid, for supplemental
26 general State aid based upon the concentration level of
27 children from low-income households within the school
28 district. Supplemental State aid grants provided for school
29 districts under this subsection shall be appropriated for
30 distribution to school districts as part of the same line item
31 in which the general State financial aid of school districts is
32 appropriated under this Section. If the appropriation in any
33 fiscal year for general State aid and supplemental general
34 State aid is insufficient to pay the amounts required under the
35 general State aid and supplemental general State aid

1 calculations, then the State Board of Education shall ensure
2 that each school district receives the full amount due for
3 general State aid and the remainder of the appropriation shall
4 be used for supplemental general State aid, which the State
5 Board of Education shall calculate and pay to eligible
6 districts on a prorated basis.

7 (1.5) This paragraph (1.5) applies only to those school
8 years preceding the 2003-2004 school year. For purposes of this
9 subsection (H), the term "Low-Income Concentration Level"
10 shall be the low-income eligible pupil count from the most
11 recently available federal census divided by the Average Daily
12 Attendance of the school district. If, however, (i) the
13 percentage decrease from the 2 most recent federal censuses in
14 the low-income eligible pupil count of a high school district
15 with fewer than 400 students exceeds by 75% or more the
16 percentage change in the total low-income eligible pupil count
17 of contiguous elementary school districts, whose boundaries
18 are coterminous with the high school district, or (ii) a high
19 school district within 2 counties and serving 5 elementary
20 school districts, whose boundaries are coterminous with the
21 high school district, has a percentage decrease from the 2 most
22 recent federal censuses in the low-income eligible pupil count
23 and there is a percentage increase in the total low-income
24 eligible pupil count of a majority of the elementary school
25 districts in excess of 50% from the 2 most recent federal
26 censuses, then the high school district's low-income eligible
27 pupil count from the earlier federal census shall be the number
28 used as the low-income eligible pupil count for the high school
29 district, for purposes of this subsection (H). The changes made
30 to this paragraph (1) by Public Act 92-28 shall apply to
31 supplemental general State aid grants for school years
32 preceding the 2003-2004 school year that are paid in fiscal
33 year 1999 or thereafter and to any State aid payments made in
34 fiscal year 1994 through fiscal year 1998 pursuant to
35 subsection 1(n) of Section 18-8 of this Code (which was
36 repealed on July 1, 1998), and any high school district that is

1 affected by Public Act 92-28 is entitled to a recomputation of
2 its supplemental general State aid grant or State aid paid in
3 any of those fiscal years. This recomputation shall not be
4 affected by any other funding.

5 (1.10) This paragraph (1.10) applies to the 2003-2004
6 school year and each school year thereafter. For purposes of
7 this subsection (H), the term "Low-Income Concentration Level"
8 shall, for each fiscal year, be the low-income eligible pupil
9 count as of July 1 of the immediately preceding fiscal year (as
10 determined by the Department of Human Services based on the
11 number of pupils who are eligible for at least one of the
12 following low income programs: Medicaid, KidCare, TANF, or Food
13 Stamps, excluding pupils who are eligible for services provided
14 by the Department of Children and Family Services, averaged
15 over the 2 immediately preceding fiscal years for fiscal year
16 2004 and over the 3 immediately preceding fiscal years for each
17 fiscal year thereafter) divided by the Average Daily Attendance
18 of the school district.

19 (2) Supplemental general State aid pursuant to this
20 subsection (H) shall be provided as follows for the 1998-1999,
21 1999-2000, and 2000-2001 school years only:

22 (a) For any school district with a Low Income
23 Concentration Level of at least 20% and less than 35%, the
24 grant for any school year shall be \$800 multiplied by the
25 low income eligible pupil count.

26 (b) For any school district with a Low Income
27 Concentration Level of at least 35% and less than 50%, the
28 grant for the 1998-1999 school year shall be \$1,100
29 multiplied by the low income eligible pupil count.

30 (c) For any school district with a Low Income
31 Concentration Level of at least 50% and less than 60%, the
32 grant for the 1998-99 school year shall be \$1,500
33 multiplied by the low income eligible pupil count.

34 (d) For any school district with a Low Income
35 Concentration Level of 60% or more, the grant for the
36 1998-99 school year shall be \$1,900 multiplied by the low

1 income eligible pupil count.

2 (e) For the 1999-2000 school year, the per pupil amount
3 specified in subparagraphs (b), (c), and (d) immediately
4 above shall be increased to \$1,243, \$1,600, and \$2,000,
5 respectively.

6 (f) For the 2000-2001 school year, the per pupil
7 amounts specified in subparagraphs (b), (c), and (d)
8 immediately above shall be \$1,273, \$1,640, and \$2,050,
9 respectively.

10 (2.5) Supplemental general State aid pursuant to this
11 subsection (H) shall be provided as follows for the 2002-2003
12 school year:

13 (a) For any school district with a Low Income
14 Concentration Level of less than 10%, the grant for each
15 school year shall be \$355 multiplied by the low income
16 eligible pupil count.

17 (b) For any school district with a Low Income
18 Concentration Level of at least 10% and less than 20%, the
19 grant for each school year shall be \$675 multiplied by the
20 low income eligible pupil count.

21 (c) For any school district with a Low Income
22 Concentration Level of at least 20% and less than 35%, the
23 grant for each school year shall be \$1,330 multiplied by
24 the low income eligible pupil count.

25 (d) For any school district with a Low Income
26 Concentration Level of at least 35% and less than 50%, the
27 grant for each school year shall be \$1,362 multiplied by
28 the low income eligible pupil count.

29 (e) For any school district with a Low Income
30 Concentration Level of at least 50% and less than 60%, the
31 grant for each school year shall be \$1,680 multiplied by
32 the low income eligible pupil count.

33 (f) For any school district with a Low Income
34 Concentration Level of 60% or more, the grant for each
35 school year shall be \$2,080 multiplied by the low income
36 eligible pupil count.

1 (2.10) Except as otherwise provided, supplemental general
2 State aid pursuant to this subsection (H) shall be provided as
3 follows for the 2003-2004 school year and each school year
4 thereafter:

5 (a) For any school district with a Low Income
6 Concentration Level of 15% or less, the grant for the
7 2003-2004 school year and 2004-2005 ~~each~~ school year shall
8 be \$355 multiplied by the low income eligible pupil count .
9 For the 2005-2006 school year and each school year
10 thereafter, the grant shall be \$355, increased by the
11 percentage increase, if any, in the ECI published for the
12 immediately preceding school year, and then multiplied by
13 the low income eligible pupil count.

14 (b) For any school district with a Low Income
15 Concentration Level greater than 15%, the grant for the
16 2003-2004 school year and 2004-2005 ~~each~~ school year shall
17 be \$294.25 added to the product of \$2,700 and the square of
18 the Low Income Concentration Level, all multiplied by the
19 low income eligible pupil count. For the 2005-2006 school
20 year and each school year thereafter, the grant shall be
21 \$294.25, increased by the percentage increase, if any, in
22 the ECI published for the immediately preceding school
23 year, then added to the product of (i) \$2,700, which amount
24 shall be increased by the percentage increase, if any, in
25 the ECI published for the immediately preceding school
26 year, and (ii) the square of the Low Income Concentration
27 Level, and then all multiplied by the low income eligible
28 pupil count.

29 For the 2003-2004 and 2004-2005 school year only, the grant
30 shall be no less than the grant for the 2002-2003 school year.
31 For the 2005-2006 school year only, the grant shall be no less
32 than the grant for the 2002-2003 school year multiplied by
33 0.66. For the 2006-2007 school year only, the grant shall be no
34 less than the grant for the 2002-2003 school year multiplied by
35 0.33.

36 For the 2003-2004 school year only, the grant shall be no

1 greater than the grant received during the 2002-2003 school
2 year added to the product of 0.25 multiplied by the difference
3 between the grant amount calculated under subsection (a) or (b)
4 of this paragraph (2.10), whichever is applicable, and the
5 grant received during the 2002-2003 school year. For the
6 2004-2005 school year only, the grant shall be no greater than
7 the grant received during the 2002-2003 school year added to
8 the product of 0.50 multiplied by the difference between the
9 grant amount calculated under subsection (a) or (b) of this
10 paragraph (2.10), whichever is applicable, and the grant
11 received during the 2002-2003 school year. For the 2005-2006
12 school year only, the grant shall be no greater than the grant
13 received during the 2002-2003 school year added to the product
14 of 0.75 multiplied by the difference between the grant amount
15 calculated under subsection (a) or (b) of this paragraph
16 (2.10), whichever is applicable, and the grant received during
17 the 2002-2003 school year.

18 (3) School districts with an Average Daily Attendance of
19 more than 1,000 and less than 50,000 that qualify for
20 supplemental general State aid pursuant to this subsection
21 shall submit a plan to the State Board of Education prior to
22 October 30 of each year for the use of the funds resulting from
23 this grant of supplemental general State aid for the
24 improvement of instruction in which priority is given to
25 meeting the education needs of disadvantaged children. Such
26 plan shall be submitted in accordance with rules and
27 regulations promulgated by the State Board of Education.

28 (4) School districts with an Average Daily Attendance of
29 50,000 or more that qualify for supplemental general State aid
30 pursuant to this subsection shall be required to distribute
31 from funds available pursuant to this Section, no less than
32 \$261,000,000 in accordance with the following requirements:

33 (a) The required amounts shall be distributed to the
34 attendance centers within the district in proportion to the
35 number of pupils enrolled at each attendance center who are
36 eligible to receive free or reduced-price lunches or

1 breakfasts under the federal Child Nutrition Act of 1966
2 and under the National School Lunch Act during the
3 immediately preceding school year.

4 (b) The distribution of these portions of supplemental
5 and general State aid among attendance centers according to
6 these requirements shall not be compensated for or
7 contravened by adjustments of the total of other funds
8 appropriated to any attendance centers, and the Board of
9 Education shall utilize funding from one or several sources
10 in order to fully implement this provision annually prior
11 to the opening of school.

12 (c) Each attendance center shall be provided by the
13 school district a distribution of noncategorical funds and
14 other categorical funds to which an attendance center is
15 entitled under law in order that the general State aid and
16 supplemental general State aid provided by application of
17 this subsection supplements rather than supplants the
18 noncategorical funds and other categorical funds provided
19 by the school district to the attendance centers.

20 (d) Any funds made available under this subsection that
21 by reason of the provisions of this subsection are not
22 required to be allocated and provided to attendance centers
23 may be used and appropriated by the board of the district
24 for any lawful school purpose.

25 (e) Funds received by an attendance center pursuant to
26 this subsection shall be used by the attendance center at
27 the discretion of the principal and local school council
28 for programs to improve educational opportunities at
29 qualifying schools through the following programs and
30 services: early childhood education, reduced class size or
31 improved adult to student classroom ratio, enrichment
32 programs, remedial assistance, attendance improvement, and
33 other educationally beneficial expenditures which
34 supplement the regular and basic programs as determined by
35 the State Board of Education. Funds provided shall not be
36 expended for any political or lobbying purposes as defined

1 by board rule.

2 (f) Each district subject to the provisions of this
3 subdivision (H) (4) shall submit an acceptable plan to meet
4 the educational needs of disadvantaged children, in
5 compliance with the requirements of this paragraph, to the
6 State Board of Education prior to July 15 of each year.
7 This plan shall be consistent with the decisions of local
8 school councils concerning the school expenditure plans
9 developed in accordance with part 4 of Section 34-2.3. The
10 State Board shall approve or reject the plan within 60 days
11 after its submission. If the plan is rejected, the district
12 shall give written notice of intent to modify the plan
13 within 15 days of the notification of rejection and then
14 submit a modified plan within 30 days after the date of the
15 written notice of intent to modify. Districts may amend
16 approved plans pursuant to rules promulgated by the State
17 Board of Education.

18 Upon notification by the State Board of Education that
19 the district has not submitted a plan prior to July 15 or a
20 modified plan within the time period specified herein, the
21 State aid funds affected by that plan or modified plan
22 shall be withheld by the State Board of Education until a
23 plan or modified plan is submitted.

24 If the district fails to distribute State aid to
25 attendance centers in accordance with an approved plan, the
26 plan for the following year shall allocate funds, in
27 addition to the funds otherwise required by this
28 subsection, to those attendance centers which were
29 underfunded during the previous year in amounts equal to
30 such underfunding.

31 For purposes of determining compliance with this
32 subsection in relation to the requirements of attendance
33 center funding, each district subject to the provisions of
34 this subsection shall submit as a separate document by
35 December 1 of each year a report of expenditure data for
36 the prior year in addition to any modification of its

1 current plan. If it is determined that there has been a
2 failure to comply with the expenditure provisions of this
3 subsection regarding contravention or supplanting, the
4 State Superintendent of Education shall, within 60 days of
5 receipt of the report, notify the district and any affected
6 local school council. The district shall within 45 days of
7 receipt of that notification inform the State
8 Superintendent of Education of the remedial or corrective
9 action to be taken, whether by amendment of the current
10 plan, if feasible, or by adjustment in the plan for the
11 following year. Failure to provide the expenditure report
12 or the notification of remedial or corrective action in a
13 timely manner shall result in a withholding of the affected
14 funds.

15 The State Board of Education shall promulgate rules and
16 regulations to implement the provisions of this
17 subsection. No funds shall be released under this
18 subdivision (H) (4) to any district that has not submitted a
19 plan that has been approved by the State Board of
20 Education.

21 (I) General State Aid for Newly Configured School Districts.

22 (1) For a new school district formed by combining property
23 included totally within 2 or more previously existing school
24 districts, for its first year of existence the general State
25 aid and supplemental general State aid calculated under this
26 Section shall be computed for the new district and for the
27 previously existing districts for which property is totally
28 included within the new district. If the computation on the
29 basis of the previously existing districts is greater, a
30 supplementary payment equal to the difference shall be made for
31 the first 4 years of existence of the new district.

32 (2) For a school district which annexes all of the
33 territory of one or more entire other school districts, for the
34 first year during which the change of boundaries attributable
35 to such annexation becomes effective for all purposes as

1 determined under Section 7-9 or 7A-8, the general State aid and
2 supplemental general State aid calculated under this Section
3 shall be computed for the annexing district as constituted
4 after the annexation and for the annexing and each annexed
5 district as constituted prior to the annexation; and if the
6 computation on the basis of the annexing and annexed districts
7 as constituted prior to the annexation is greater, a
8 supplementary payment equal to the difference shall be made for
9 the first 4 years of existence of the annexing school district
10 as constituted upon such annexation.

11 (3) For 2 or more school districts which annex all of the
12 territory of one or more entire other school districts, and for
13 2 or more community unit districts which result upon the
14 division (pursuant to petition under Section 11A-2) of one or
15 more other unit school districts into 2 or more parts and which
16 together include all of the parts into which such other unit
17 school district or districts are so divided, for the first year
18 during which the change of boundaries attributable to such
19 annexation or division becomes effective for all purposes as
20 determined under Section 7-9 or 11A-10, as the case may be, the
21 general State aid and supplemental general State aid calculated
22 under this Section shall be computed for each annexing or
23 resulting district as constituted after the annexation or
24 division and for each annexing and annexed district, or for
25 each resulting and divided district, as constituted prior to
26 the annexation or division; and if the aggregate of the general
27 State aid and supplemental general State aid as so computed for
28 the annexing or resulting districts as constituted after the
29 annexation or division is less than the aggregate of the
30 general State aid and supplemental general State aid as so
31 computed for the annexing and annexed districts, or for the
32 resulting and divided districts, as constituted prior to the
33 annexation or division, then a supplementary payment equal to
34 the difference shall be made and allocated between or among the
35 annexing or resulting districts, as constituted upon such
36 annexation or division, for the first 4 years of their

1 existence. The total difference payment shall be allocated
2 between or among the annexing or resulting districts in the
3 same ratio as the pupil enrollment from that portion of the
4 annexed or divided district or districts which is annexed to or
5 included in each such annexing or resulting district bears to
6 the total pupil enrollment from the entire annexed or divided
7 district or districts, as such pupil enrollment is determined
8 for the school year last ending prior to the date when the
9 change of boundaries attributable to the annexation or division
10 becomes effective for all purposes. The amount of the total
11 difference payment and the amount thereof to be allocated to
12 the annexing or resulting districts shall be computed by the
13 State Board of Education on the basis of pupil enrollment and
14 other data which shall be certified to the State Board of
15 Education, on forms which it shall provide for that purpose, by
16 the regional superintendent of schools for each educational
17 service region in which the annexing and annexed districts, or
18 resulting and divided districts are located.

19 (3.5) Claims for financial assistance under this
20 subsection (I) shall not be recomputed except as expressly
21 provided under this Section.

22 (4) Any supplementary payment made under this subsection
23 (I) shall be treated as separate from all other payments made
24 pursuant to this Section.

25 (J) Supplementary Grants in Aid.

26 (1) Notwithstanding any other provisions of this Section,
27 the amount of the aggregate general State aid in combination
28 with supplemental general State aid under this Section for
29 which each school district is eligible shall be no less than
30 the amount of the aggregate general State aid entitlement that
31 was received by the district under Section 18-8 (exclusive of
32 amounts received under subsections 5(p) and 5(p-5) of that
33 Section) for the 1997-98 school year, pursuant to the
34 provisions of that Section as it was then in effect. If a
35 school district qualifies to receive a supplementary payment

1 made under this subsection (J), the amount of the aggregate
2 general State aid in combination with supplemental general
3 State aid under this Section which that district is eligible to
4 receive for each school year shall be no less than the amount
5 of the aggregate general State aid entitlement that was
6 received by the district under Section 18-8 (exclusive of
7 amounts received under subsections 5(p) and 5(p-5) of that
8 Section) for the 1997-1998 school year, pursuant to the
9 provisions of that Section as it was then in effect.

10 (2) If, as provided in paragraph (1) of this subsection
11 (J), a school district is to receive aggregate general State
12 aid in combination with supplemental general State aid under
13 this Section for the 1998-99 school year and any subsequent
14 school year that in any such school year is less than the
15 amount of the aggregate general State aid entitlement that the
16 district received for the 1997-98 school year, the school
17 district shall also receive, from a separate appropriation made
18 for purposes of this subsection (J), a supplementary payment
19 that is equal to the amount of the difference in the aggregate
20 State aid figures as described in paragraph (1).

21 (3) (Blank).

22 (K) Grants to Laboratory and Alternative Schools.

23 In calculating the amount to be paid to the governing board
24 of a public university that operates a laboratory school under
25 this Section or to any alternative school that is operated by a
26 regional superintendent of schools, the State Board of
27 Education shall require by rule such reporting requirements as
28 it deems necessary.

29 As used in this Section, "laboratory school" means a public
30 school which is created and operated by a public university and
31 approved by the State Board of Education. The governing board
32 of a public university which receives funds from the State
33 Board under this subsection (K) may not increase the number of
34 students enrolled in its laboratory school from a single
35 district, if that district is already sending 50 or more

1 students, except under a mutual agreement between the school
2 board of a student's district of residence and the university
3 which operates the laboratory school. A laboratory school may
4 not have more than 1,000 students, excluding students with
5 disabilities in a special education program.

6 As used in this Section, "alternative school" means a
7 public school which is created and operated by a Regional
8 Superintendent of Schools and approved by the State Board of
9 Education. Such alternative schools may offer courses of
10 instruction for which credit is given in regular school
11 programs, courses to prepare students for the high school
12 equivalency testing program or vocational and occupational
13 training. A regional superintendent of schools may contract
14 with a school district or a public community college district
15 to operate an alternative school. An alternative school serving
16 more than one educational service region may be established by
17 the regional superintendents of schools of the affected
18 educational service regions. An alternative school serving
19 more than one educational service region may be operated under
20 such terms as the regional superintendents of schools of those
21 educational service regions may agree.

22 Each laboratory and alternative school shall file, on forms
23 provided by the State Superintendent of Education, an annual
24 State aid claim which states the Average Daily Attendance of
25 the school's students by month. The best 3 months' Average
26 Daily Attendance shall be computed for each school. The general
27 State aid entitlement shall be computed by multiplying the
28 applicable Average Daily Attendance by the Foundation Level as
29 determined under this Section.

30 (L) Payments, Additional Grants in Aid and Other Requirements.

31 (1) For a school district operating under the financial
32 supervision of an Authority created under Article 34A, the
33 general State aid otherwise payable to that district under this
34 Section, but not the supplemental general State aid, shall be
35 reduced by an amount equal to the budget for the operations of

1 the Authority as certified by the Authority to the State Board
2 of Education, and an amount equal to such reduction shall be
3 paid to the Authority created for such district for its
4 operating expenses in the manner provided in Section 18-11. The
5 remainder of general State school aid for any such district
6 shall be paid in accordance with Article 34A when that Article
7 provides for a disposition other than that provided by this
8 Article.

9 (2) (Blank).

10 (3) Summer school. Summer school payments shall be made as
11 provided in Section 18-4.3.

12 (M) Education Funding Advisory Board.

13 The Education Funding Advisory Board, hereinafter in this
14 subsection (M) referred to as the "Board", is hereby created.
15 The Board shall consist of 5 members who are appointed by the
16 Governor, by and with the advice and consent of the Senate. The
17 members appointed shall include representatives of education,
18 business, and the general public. One of the members so
19 appointed shall be designated by the Governor at the time the
20 appointment is made as the chairperson of the Board. The
21 initial members of the Board may be appointed any time after
22 the effective date of this amendatory Act of 1997. The regular
23 term of each member of the Board shall be for 4 years from the
24 third Monday of January of the year in which the term of the
25 member's appointment is to commence, except that of the 5
26 initial members appointed to serve on the Board, the member who
27 is appointed as the chairperson shall serve for a term that
28 commences on the date of his or her appointment and expires on
29 the third Monday of January, 2002, and the remaining 4 members,
30 by lots drawn at the first meeting of the Board that is held
31 after all 5 members are appointed, shall determine 2 of their
32 number to serve for terms that commence on the date of their
33 respective appointments and expire on the third Monday of
34 January, 2001, and 2 of their number to serve for terms that
35 commence on the date of their respective appointments and

1 expire on the third Monday of January, 2000. All members
2 appointed to serve on the Board shall serve until their
3 respective successors are appointed and confirmed. Vacancies
4 shall be filled in the same manner as original appointments. If
5 a vacancy in membership occurs at a time when the Senate is not
6 in session, the Governor shall make a temporary appointment
7 until the next meeting of the Senate, when he or she shall
8 appoint, by and with the advice and consent of the Senate, a
9 person to fill that membership for the unexpired term. If the
10 Senate is not in session when the initial appointments are
11 made, those appointments shall be made as in the case of
12 vacancies.

13 The Education Funding Advisory Board shall be deemed
14 established, and the initial members appointed by the Governor
15 to serve as members of the Board shall take office, on the date
16 that the Governor makes his or her appointment of the fifth
17 initial member of the Board, whether those initial members are
18 then serving pursuant to appointment and confirmation or
19 pursuant to temporary appointments that are made by the
20 Governor as in the case of vacancies.

21 The State Board of Education shall provide such staff
22 assistance to the Education Funding Advisory Board as is
23 reasonably required for the proper performance by the Board of
24 its responsibilities.

25 For school years after the 2000-2001 school year, the
26 Education Funding Advisory Board, in consultation with the
27 State Board of Education, shall make recommendations as
28 provided in this subsection (M) to the General Assembly for the
29 foundation level under subsection (B) ~~subdivision (B) (3)~~ of
30 this Section and for the supplemental general State aid grant
31 level under subsection (H) of this Section for districts with
32 high concentrations of children from poverty. The recommended
33 foundation level shall be determined based on a methodology
34 which incorporates the basic education expenditures of
35 low-spending schools exhibiting high academic performance. The
36 Education Funding Advisory Board shall make such

1 recommendations to the General Assembly on January 1 of odd
2 numbered years, beginning January 1, 2001.

3 (N) (Blank).

4 (O) References.

5 (1) References in other laws to the various subdivisions of
6 Section 18-8 as that Section existed before its repeal and
7 replacement by this Section 18-8.05 shall be deemed to refer to
8 the corresponding provisions of this Section 18-8.05, to the
9 extent that those references remain applicable.

10 (2) References in other laws to State Chapter 1 funds shall
11 be deemed to refer to the supplemental general State aid
12 provided under subsection (H) of this Section.

13 (P) Public Act 93-838 ~~This amendatory Act of the 93rd General~~
14 ~~Assembly and Public Act 93-808 House Bill 4266 of the 93rd~~
15 ~~General Assembly~~ make inconsistent changes to this Section. ~~If~~
16 ~~House Bill 4266 becomes law, then~~ Under Section 6 of the
17 Statute on Statutes there is an irreconcilable conflict between
18 Public Act 93-808 and Public Act 93-838 ~~House Bill 4266 and~~
19 ~~this amendatory Act.~~ Public Act 93-838 ~~This amendatory Act,~~
20 being the last acted upon, is controlling. The text of Public
21 Act 93-838 ~~this amendatory Act~~ is the law regardless of the
22 text of Public Act 93-808 ~~House Bill 4266~~.

23 (Source: P.A. 92-16, eff. 6-28-01; 92-28, eff. 7-1-01; 92-29,
24 eff. 7-1-01; 92-269, eff. 8-7-01; 92-604, eff. 7-1-02; 92-636,
25 eff. 7-11-02; 92-651, eff. 7-11-02; 93-21, eff. 7-1-03; 93-715,
26 eff. 7-12-04; 93-808, eff. 7-26-04; 93-838, eff. 7-30-04;
27 93-875, eff. 8-6-04; revised 10-21-04.)

28 (105 ILCS 5/18-8.15 new)

29 Sec. 18-8.15. Supplemental State aid for rapidly expanding
30 school districts.

31 (a) If there has been an increase in a school district's
32 student population over any 2 consecutive school years of (i)

1 over 1.5% in a district with 10,000 or more pupils in average
2 daily attendance, as defined in Section 18-8.05 of this Code,
3 or (ii) over 10% in any other district, then, subject to
4 appropriation, the district is eligible for a grant under this
5 Section.

6 (b) The State Board of Education shall determine a per
7 pupil grant amount for each school district based on the needs
8 of each district. The total grant amount for a district for any
9 given school year shall equal the per pupil grant amount
10 multiplied by the difference between the number of pupils in
11 average daily attendance for the first 3 months of the school
12 year and the number of pupils in average daily attendance for
13 the immediately preceding school year.

14 (c) Each fiscal year, the General Assembly shall
15 appropriate at least \$40 million of the aggregate Common School
16 Fund appropriation to funding supplemental grants under this
17 Section. Funds for grants under this Section must be
18 appropriated to the State Board of Education in a separate line
19 item for this purpose. As soon as possible after funds have
20 been appropriated to the State Board of Education, the State
21 Board of Education shall distribute the grants to eligible
22 districts.

23 (d) If a school district intentionally reports incorrect
24 average daily attendance numbers to receive a grant under this
25 Section, then the district shall be denied State aid for
26 intentional incorrect reporting of average daily attendance
27 numbers under Section 18-8.05 of this Code.

28 (e) The State Board of Education may adopt any rules
29 necessary to implement this Section.

30 (105 ILCS 5/18-25 new)

31 Sec. 18-25. Education appropriation minimum. At a minimum,
32 the General Assembly shall appropriate to the Common School
33 Fund for fiscal year 2006 and each fiscal year thereafter, an
34 amount equal to the following (the "Education Appropriation
35 Minimum"):

1 (1) For fiscal year 2006, a total appropriation equal
2 to the sum of (A) all amounts appropriated to the Common
3 School Fund for fiscal year 2005, plus (B) the amount
4 necessary to increase the Foundation Level of support per
5 student to \$5,952 under Section 18-8.05 of this Code, plus
6 (C) \$2.4 billion to fund the School District Property Tax
7 Relief Fund described in Section 6z-65 of the State Finance
8 Act.

9 (2) For each fiscal year thereafter, a total
10 appropriation equal to (A) the Education Appropriation
11 Minimum for the immediately preceding fiscal year,
12 increased by the percentage increase, if any, in the
13 Employment Cost Index published by the U.S. Bureau of Labor
14 Statistics for the immediately preceding fiscal year, or
15 (B) such greater amount as the General Assembly may
16 appropriate.

1	INDEX	
2	Statutes amended in order of appearance	
3	30 ILCS 105/5.640 new	
4	30 ILCS 105/6z-68 new	
5	35 ILCS 5/201	from Ch. 120, par. 2-201
6	35 ILCS 5/203	from Ch. 120, par. 2-203
7	35 ILCS 5/247 new	
8	35 ILCS 105/2	from Ch. 120, par. 439.2
9	35 ILCS 105/3-50 rep.	from Ch. 120, par. 439.3-50
10	35 ILCS 110/2	from Ch. 120, par. 439.32
11	35 ILCS 115/2	from Ch. 120, par. 439.102
12	35 ILCS 120/1	from Ch. 120, par. 440
13	35 ILCS 120/2-5	from Ch. 120, par. 441-5
14	35 ILCS 120/1d rep.	from Ch. 120, par. 440d
15	35 ILCS 120/1f rep.	from Ch. 120, par. 440f
16	35 ILCS 200/18-178 new	
17	35 ILCS 200/18-255	
18	35 ILCS 200/20-15	
19	35 ILCS 200/21-30	
20	35 ILCS 505/2b	from Ch. 120, par. 418b
21	105 ILCS 5/18-8.05	
22	105 ILCS 5/18-8.15 new	
23	105 ILCS 5/18-25 new	