



Rep. Linda Chapa LaVia

Filed: 5/10/2007

09500HB2664ham001

LRB095 01126 CMK 35850 a

1 AMENDMENT TO HOUSE BILL 2664

2 AMENDMENT NO. _____. Amend House Bill 2664 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The State Employee Indemnification Act is
5 amended by changing Section 1 as follows:

6 (5 ILCS 350/1) (from Ch. 127, par. 1301)

7 Sec. 1. Definitions. For the purpose of this Act:

8 (a) The term "State" means the State of Illinois, the
9 General Assembly, the court, or any State office, department,
10 division, bureau, board, commission, or committee, the
11 governing boards of the public institutions of higher education
12 created by the State, the Illinois National Guard and Illinois
13 Naval Militia, the Comprehensive Health Insurance Board, any
14 poison control center designated under the Poison Control
15 System Act that receives State funding, or any other agency or
16 instrumentality of the State. It does not mean any local public

1 entity as that term is defined in Section 1-206 of the Local
2 Governmental and Governmental Employees Tort Immunity Act or a
3 pension fund.

4 (b) The term "employee" means any present or former elected
5 or appointed officer, trustee or employee of the State, or of a
6 pension fund, any present or former commissioner or employee of
7 the Executive Ethics Commission or of the Legislative Ethics
8 Commission, any present or former Executive, Legislative, or
9 Auditor General's Inspector General, any present or former
10 employee of an Office of an Executive, Legislative, or Auditor
11 General's Inspector General, any present or former member of
12 the Illinois National Guard or Illinois Naval Militia while on
13 active duty, individuals or organizations who contract with the
14 Department of Corrections, the Comprehensive Health Insurance
15 Board, or the Department of Veterans' Affairs to provide
16 services, individuals or organizations who contract with the
17 Department of Human Services (as successor to the Department of
18 Mental Health and Developmental Disabilities) to provide
19 services including but not limited to treatment and other
20 services for sexually violent persons, individuals or
21 organizations who contract with the Department of Military
22 Affairs for youth programs, individuals or organizations who
23 contract to perform carnival and amusement ride safety
24 inspections for the Department of Labor, individual
25 representatives of or designated organizations authorized to
26 represent the Office of State Long-Term Ombudsman for the

1 Department on Aging, individual representatives of or
2 organizations designated by the Department on Aging in the
3 performance of their duties as elder abuse provider agencies or
4 regional administrative agencies under the Elder Abuse and
5 Neglect Act, individuals or organizations who perform
6 volunteer services for the State where such volunteer
7 relationship is reduced to writing, individuals who serve on
8 any public entity (whether created by law or administrative
9 action) described in paragraph (a) of this Section, individuals
10 or not for profit organizations who, either as volunteers,
11 where such volunteer relationship is reduced to writing, or
12 pursuant to contract, furnish professional advice or
13 consultation to any agency or instrumentality of the State,
14 individuals who serve as foster parents for the Department of
15 Children and Family Services when caring for a Department ward,
16 and individuals who serve as arbitrators pursuant to Part 10A
17 of Article II of the Code of Civil Procedure and the rules of
18 the Supreme Court implementing Part 10A, each as now or
19 hereafter amended, but does not mean an independent contractor
20 except as provided in this Section. The term includes an
21 individual appointed as an inspector by the Director of State
22 Police when performing duties within the scope of the
23 activities of a Metropolitan Enforcement Group or a law
24 enforcement organization established under the
25 Intergovernmental Cooperation Act. An individual who renders
26 professional advice and consultation to the State through an

1 organization which qualifies as an "employee" under the Act is
2 also an employee. The term includes the estate or personal
3 representative of an employee.

4 (c) The term "pension fund" means a retirement system or
5 pension fund created under the Illinois Pension Code.

6 (Source: P.A. 93-617, eff. 12-9-03.)

7 Section 10. The State Employees Group Insurance Act of
8 1971 is amended by changing Section 3 as follows:

9 (5 ILCS 375/3) (from Ch. 127, par. 523)

10 Sec. 3. Definitions. Unless the context otherwise
11 requires, the following words and phrases as used in this Act
12 shall have the following meanings. The Department may define
13 these and other words and phrases separately for the purpose of
14 implementing specific programs providing benefits under this
15 Act.

16 (a) "Administrative service organization" means any
17 person, firm or corporation experienced in the handling of
18 claims which is fully qualified, financially sound and capable
19 of meeting the service requirements of a contract of
20 administration executed with the Department.

21 (b) "Annuitant" means (1) an employee who retires, or has
22 retired, on or after January 1, 1966 on an immediate annuity
23 under the provisions of Articles 2, 14 (including an employee
24 who has elected to receive an alternative retirement

1 cancellation payment under Section 14-108.5 of the Illinois
2 Pension Code in lieu of an annuity), 15 (including an employee
3 who has retired under the optional retirement program
4 established under Section 15-158.2), paragraphs (2), (3), or
5 (5) of Section 16-106, or Article 18 of the Illinois Pension
6 Code; (2) any person who was receiving group insurance coverage
7 under this Act as of March 31, 1978 by reason of his status as
8 an annuitant, even though the annuity in relation to which such
9 coverage was provided is a proportional annuity based on less
10 than the minimum period of service required for a retirement
11 annuity in the system involved; (3) any person not otherwise
12 covered by this Act who has retired as a participating member
13 under Article 2 of the Illinois Pension Code but is ineligible
14 for the retirement annuity under Section 2-119 of the Illinois
15 Pension Code; (4) the spouse of any person who is receiving a
16 retirement annuity under Article 18 of the Illinois Pension
17 Code and who is covered under a group health insurance program
18 sponsored by a governmental employer other than the State of
19 Illinois and who has irrevocably elected to waive his or her
20 coverage under this Act and to have his or her spouse
21 considered as the "annuitant" under this Act and not as a
22 "dependent"; or (5) an employee who retires, or has retired,
23 from a qualified position, as determined according to rules
24 promulgated by the Director, under a qualified local
25 government, a qualified rehabilitation facility, a qualified
26 domestic violence shelter or service, or a qualified child

1 advocacy center. (For definition of "retired employee", see (p)
2 post).

3 (b-5) "New SERS annuitant" means a person who, on or after
4 January 1, 1998, becomes an annuitant, as defined in subsection
5 (b), by virtue of beginning to receive a retirement annuity
6 under Article 14 of the Illinois Pension Code (including an
7 employee who has elected to receive an alternative retirement
8 cancellation payment under Section 14-108.5 of that Code in
9 lieu of an annuity), and is eligible to participate in the
10 basic program of group health benefits provided for annuitants
11 under this Act.

12 (b-6) "New SURS annuitant" means a person who (1) on or
13 after January 1, 1998, becomes an annuitant, as defined in
14 subsection (b), by virtue of beginning to receive a retirement
15 annuity under Article 15 of the Illinois Pension Code, (2) has
16 not made the election authorized under Section 15-135.1 of the
17 Illinois Pension Code, and (3) is eligible to participate in
18 the basic program of group health benefits provided for
19 annuitants under this Act.

20 (b-7) "New TRS State annuitant" means a person who, on or
21 after July 1, 1998, becomes an annuitant, as defined in
22 subsection (b), by virtue of beginning to receive a retirement
23 annuity under Article 16 of the Illinois Pension Code based on
24 service as a teacher as defined in paragraph (2), (3), or (5)
25 of Section 16-106 of that Code, and is eligible to participate
26 in the basic program of group health benefits provided for

1 annuitants under this Act.

2 (c) "Carrier" means (1) an insurance company, a corporation
3 organized under the Limited Health Service Organization Act or
4 the Voluntary Health Services Plan Act, a partnership, or other
5 nongovernmental organization, which is authorized to do group
6 life or group health insurance business in Illinois, or (2) the
7 State of Illinois as a self-insurer.

8 (d) "Compensation" means salary or wages payable on a
9 regular payroll by the State Treasurer on a warrant of the
10 State Comptroller out of any State, trust or federal fund, or
11 by the Governor of the State through a disbursing officer of
12 the State out of a trust or out of federal funds, or by any
13 Department out of State, trust, federal or other funds held by
14 the State Treasurer or the Department, to any person for
15 personal services currently performed, and ordinary or
16 accidental disability benefits under Articles 2, 14, 15
17 (including ordinary or accidental disability benefits under
18 the optional retirement program established under Section
19 15-158.2), paragraphs (2), (3), or (5) of Section 16-106, or
20 Article 18 of the Illinois Pension Code, for disability
21 incurred after January 1, 1966, or benefits payable under the
22 Workers' Compensation or Occupational Diseases Act or benefits
23 payable under a sick pay plan established in accordance with
24 Section 36 of the State Finance Act. "Compensation" also means
25 salary or wages paid to an employee of any qualified local
26 government, qualified rehabilitation facility, qualified

1 domestic violence shelter or service, or qualified child
2 advocacy center.

3 (e) "Commission" means the State Employees Group Insurance
4 Advisory Commission authorized by this Act. Commencing July 1,
5 1984, "Commission" as used in this Act means the Commission on
6 Government Forecasting and Accountability as established by
7 the Legislative Commission Reorganization Act of 1984.

8 (f) "Contributory", when referred to as contributory
9 coverage, shall mean optional coverages or benefits elected by
10 the member toward the cost of which such member makes
11 contribution, or which are funded in whole or in part through
12 the acceptance of a reduction in earnings or the foregoing of
13 an increase in earnings by an employee, as distinguished from
14 noncontributory coverage or benefits which are paid entirely by
15 the State of Illinois without reduction of the member's salary.

16 (g) "Department" means any department, institution, board,
17 commission, officer, court or any agency of the State
18 government receiving appropriations and having power to
19 certify payrolls to the Comptroller authorizing payments of
20 salary and wages against such appropriations as are made by the
21 General Assembly from any State fund, or against trust funds
22 held by the State Treasurer and includes boards of trustees of
23 the retirement systems created by Articles 2, 14, 15, 16 and 18
24 of the Illinois Pension Code. "Department" also includes the
25 Illinois Comprehensive Health Insurance Board, the Board of
26 Examiners established under the Illinois Public Accounting

1 Act, and the Illinois Finance Authority.

2 (h) "Dependent", when the term is used in the context of
3 the health and life plan, means a member's spouse and any
4 unmarried child (1) from birth to age 19 including an adopted
5 child, a child who lives with the member from the time of the
6 filing of a petition for adoption until entry of an order of
7 adoption, a stepchild or recognized child who lives with the
8 member in a parent-child relationship, or a child who lives
9 with the member if such member is a court appointed guardian of
10 the child, or (2) age 19 to 23 enrolled as a full-time student
11 in any accredited school, financially dependent upon the
12 member, and eligible to be claimed as a dependent for income
13 tax purposes, or (3) age 19 or over who is mentally or
14 physically handicapped. For the purposes of item (2), an
15 unmarried child age 19 to 23 who is a member of the United
16 States Armed Services, including the Illinois National Guard or
17 the Illinois Naval Militia, and is mobilized to active duty
18 shall qualify as a dependent beyond the age of 23 and until the
19 age of 25 and while a full-time student for the amount of time
20 spent on active duty between the ages of 19 and 23. The
21 individual attempting to qualify for this additional time must
22 submit written documentation of active duty service to the
23 Director. The changes made by this amendatory Act of the 94th
24 General Assembly apply only to individuals mobilized to active
25 duty in the United States Armed Services, including the
26 Illinois National Guard or Illinois Naval Militia, on or after

1 January 1, 2002. For the health plan only, the term "dependent"
2 also includes any person enrolled prior to the effective date
3 of this Section who is dependent upon the member to the extent
4 that the member may claim such person as a dependent for income
5 tax deduction purposes; no other such person may be enrolled.
6 For the health plan only, the term "dependent" also includes
7 any person who has received after June 30, 2000 an organ
8 transplant and who is financially dependent upon the member and
9 eligible to be claimed as a dependent for income tax purposes.

10 (i) "Director" means the Director of the Illinois
11 Department of Central Management Services.

12 (j) "Eligibility period" means the period of time a member
13 has to elect enrollment in programs or to select benefits
14 without regard to age, sex or health.

15 (k) "Employee" means and includes each officer or employee
16 in the service of a department who (1) receives his
17 compensation for service rendered to the department on a
18 warrant issued pursuant to a payroll certified by a department
19 or on a warrant or check issued and drawn by a department upon
20 a trust, federal or other fund or on a warrant issued pursuant
21 to a payroll certified by an elected or duly appointed officer
22 of the State or who receives payment of the performance of
23 personal services on a warrant issued pursuant to a payroll
24 certified by a Department and drawn by the Comptroller upon the
25 State Treasurer against appropriations made by the General
26 Assembly from any fund or against trust funds held by the State

1 Treasurer, and (2) is employed full-time or part-time in a
2 position normally requiring actual performance of duty during
3 not less than 1/2 of a normal work period, as established by
4 the Director in cooperation with each department, except that
5 persons elected by popular vote will be considered employees
6 during the entire term for which they are elected regardless of
7 hours devoted to the service of the State, and (3) except that
8 "employee" does not include any person who is not eligible by
9 reason of such person's employment to participate in one of the
10 State retirement systems under Articles 2, 14, 15 (either the
11 regular Article 15 system or the optional retirement program
12 established under Section 15-158.2) or 18, or under paragraph
13 (2), (3), or (5) of Section 16-106, of the Illinois Pension
14 Code, but such term does include persons who are employed
15 during the 6 month qualifying period under Article 14 of the
16 Illinois Pension Code. Such term also includes any person who
17 (1) after January 1, 1966, is receiving ordinary or accidental
18 disability benefits under Articles 2, 14, 15 (including
19 ordinary or accidental disability benefits under the optional
20 retirement program established under Section 15-158.2),
21 paragraphs (2), (3), or (5) of Section 16-106, or Article 18 of
22 the Illinois Pension Code, for disability incurred after
23 January 1, 1966, (2) receives total permanent or total
24 temporary disability under the Workers' Compensation Act or
25 Occupational Disease Act as a result of injuries sustained or
26 illness contracted in the course of employment with the State

1 of Illinois, or (3) is not otherwise covered under this Act and
2 has retired as a participating member under Article 2 of the
3 Illinois Pension Code but is ineligible for the retirement
4 annuity under Section 2-119 of the Illinois Pension Code.
5 However, a person who satisfies the criteria of the foregoing
6 definition of "employee" except that such person is made
7 ineligible to participate in the State Universities Retirement
8 System by clause (4) of subsection (a) of Section 15-107 of the
9 Illinois Pension Code is also an "employee" for the purposes of
10 this Act. "Employee" also includes any person receiving or
11 eligible for benefits under a sick pay plan established in
12 accordance with Section 36 of the State Finance Act. "Employee"
13 also includes (i) each officer or employee in the service of a
14 qualified local government, including persons appointed as
15 trustees of sanitary districts regardless of hours devoted to
16 the service of the sanitary district, (ii) each employee in the
17 service of a qualified rehabilitation facility, (iii) each
18 full-time employee in the service of a qualified domestic
19 violence shelter or service, and (iv) each full-time employee
20 in the service of a qualified child advocacy center, as
21 determined according to rules promulgated by the Director.

22 (l) "Member" means an employee, annuitant, retired
23 employee or survivor.

24 (m) "Optional coverages or benefits" means those coverages
25 or benefits available to the member on his or her voluntary
26 election, and at his or her own expense.

1 (n) "Program" means the group life insurance, health
2 benefits and other employee benefits designed and contracted
3 for by the Director under this Act.

4 (o) "Health plan" means a health benefits program offered
5 by the State of Illinois for persons eligible for the plan.

6 (p) "Retired employee" means any person who would be an
7 annuitant as that term is defined herein but for the fact that
8 such person retired prior to January 1, 1966. Such term also
9 includes any person formerly employed by the University of
10 Illinois in the Cooperative Extension Service who would be an
11 annuitant but for the fact that such person was made ineligible
12 to participate in the State Universities Retirement System by
13 clause (4) of subsection (a) of Section 15-107 of the Illinois
14 Pension Code.

15 (q) "Survivor" means a person receiving an annuity as a
16 survivor of an employee or of an annuitant. "Survivor" also
17 includes: (1) the surviving dependent of a person who satisfies
18 the definition of "employee" except that such person is made
19 ineligible to participate in the State Universities Retirement
20 System by clause (4) of subsection (a) of Section 15-107 of the
21 Illinois Pension Code; (2) the surviving dependent of any
22 person formerly employed by the University of Illinois in the
23 Cooperative Extension Service who would be an annuitant except
24 for the fact that such person was made ineligible to
25 participate in the State Universities Retirement System by
26 clause (4) of subsection (a) of Section 15-107 of the Illinois

1 Pension Code; and (3) the surviving dependent of a person who
2 was an annuitant under this Act by virtue of receiving an
3 alternative retirement cancellation payment under Section
4 14-108.5 of the Illinois Pension Code.

5 (q-2) "SERS" means the State Employees' Retirement System
6 of Illinois, created under Article 14 of the Illinois Pension
7 Code.

8 (q-3) "SURS" means the State Universities Retirement
9 System, created under Article 15 of the Illinois Pension Code.

10 (q-4) "TRS" means the Teachers' Retirement System of the
11 State of Illinois, created under Article 16 of the Illinois
12 Pension Code.

13 (q-5) "New SERS survivor" means a survivor, as defined in
14 subsection (q), whose annuity is paid under Article 14 of the
15 Illinois Pension Code and is based on the death of (i) an
16 employee whose death occurs on or after January 1, 1998, or
17 (ii) a new SERS annuitant as defined in subsection (b-5). "New
18 SERS survivor" includes the surviving dependent of a person who
19 was an annuitant under this Act by virtue of receiving an
20 alternative retirement cancellation payment under Section
21 14-108.5 of the Illinois Pension Code.

22 (q-6) "New SURS survivor" means a survivor, as defined in
23 subsection (q), whose annuity is paid under Article 15 of the
24 Illinois Pension Code and is based on the death of (i) an
25 employee whose death occurs on or after January 1, 1998, or
26 (ii) a new SURS annuitant as defined in subsection (b-6).

1 (q-7) "New TRS State survivor" means a survivor, as defined
2 in subsection (q), whose annuity is paid under Article 16 of
3 the Illinois Pension Code and is based on the death of (i) an
4 employee who is a teacher as defined in paragraph (2), (3), or
5 (5) of Section 16-106 of that Code and whose death occurs on or
6 after July 1, 1998, or (ii) a new TRS State annuitant as
7 defined in subsection (b-7).

8 (r) "Medical services" means the services provided within
9 the scope of their licenses by practitioners in all categories
10 licensed under the Medical Practice Act of 1987.

11 (s) "Unit of local government" means any county,
12 municipality, township, school district (including a
13 combination of school districts under the Intergovernmental
14 Cooperation Act), special district or other unit, designated as
15 a unit of local government by law, which exercises limited
16 governmental powers or powers in respect to limited
17 governmental subjects, any not-for-profit association with a
18 membership that primarily includes townships and township
19 officials, that has duties that include provision of research
20 service, dissemination of information, and other acts for the
21 purpose of improving township government, and that is funded
22 wholly or partly in accordance with Section 85-15 of the
23 Township Code; any not-for-profit corporation or association,
24 with a membership consisting primarily of municipalities, that
25 operates its own utility system, and provides research,
26 training, dissemination of information, or other acts to

1 promote cooperation between and among municipalities that
2 provide utility services and for the advancement of the goals
3 and purposes of its membership; the Southern Illinois
4 Collegiate Common Market, which is a consortium of higher
5 education institutions in Southern Illinois; the Illinois
6 Association of Park Districts; and any hospital provider that
7 is owned by a county that has 100 or fewer hospital beds and
8 has not already joined the program. "Qualified local
9 government" means a unit of local government approved by the
10 Director and participating in a program created under
11 subsection (i) of Section 10 of this Act.

12 (t) "Qualified rehabilitation facility" means any
13 not-for-profit organization that is accredited by the
14 Commission on Accreditation of Rehabilitation Facilities or
15 certified by the Department of Human Services (as successor to
16 the Department of Mental Health and Developmental
17 Disabilities) to provide services to persons with disabilities
18 and which receives funds from the State of Illinois for
19 providing those services, approved by the Director and
20 participating in a program created under subsection (j) of
21 Section 10 of this Act.

22 (u) "Qualified domestic violence shelter or service" means
23 any Illinois domestic violence shelter or service and its
24 administrative offices funded by the Department of Human
25 Services (as successor to the Illinois Department of Public
26 Aid), approved by the Director and participating in a program

1 created under subsection (k) of Section 10.

2 (v) "TRS benefit recipient" means a person who:

3 (1) is not a "member" as defined in this Section; and

4 (2) is receiving a monthly benefit or retirement
5 annuity under Article 16 of the Illinois Pension Code; and

6 (3) either (i) has at least 8 years of creditable
7 service under Article 16 of the Illinois Pension Code, or
8 (ii) was enrolled in the health insurance program offered
9 under that Article on January 1, 1996, or (iii) is the
10 survivor of a benefit recipient who had at least 8 years of
11 creditable service under Article 16 of the Illinois Pension
12 Code or was enrolled in the health insurance program
13 offered under that Article on the effective date of this
14 amendatory Act of 1995, or (iv) is a recipient or survivor
15 of a recipient of a disability benefit under Article 16 of
16 the Illinois Pension Code.

17 (w) "TRS dependent beneficiary" means a person who:

18 (1) is not a "member" or "dependent" as defined in this
19 Section; and

20 (2) is a TRS benefit recipient's: (A) spouse, (B)
21 dependent parent who is receiving at least half of his or
22 her support from the TRS benefit recipient, or (C)
23 unmarried natural or adopted child who is (i) under age 19,
24 or (ii) enrolled as a full-time student in an accredited
25 school, financially dependent upon the TRS benefit
26 recipient, eligible to be claimed as a dependent for income

1 tax purposes, and either is under age 24 or was, on January
2 1, 1996, participating as a dependent beneficiary in the
3 health insurance program offered under Article 16 of the
4 Illinois Pension Code, or (iii) age 19 or over who is
5 mentally or physically handicapped.

6 (x) "Military leave with pay and benefits" refers to
7 individuals in basic training for reserves, special/advanced
8 training, annual training, emergency call up, or activation by
9 the President of the United States with approved pay and
10 benefits.

11 (y) "Military leave without pay and benefits" refers to
12 individuals who enlist for active duty in a regular component
13 of the U.S. Armed Forces or other duty not specified or
14 authorized under military leave with pay and benefits.

15 (z) "Community college benefit recipient" means a person
16 who:

17 (1) is not a "member" as defined in this Section; and

18 (2) is receiving a monthly survivor's annuity or
19 retirement annuity under Article 15 of the Illinois Pension
20 Code; and

21 (3) either (i) was a full-time employee of a community
22 college district or an association of community college
23 boards created under the Public Community College Act
24 (other than an employee whose last employer under Article
25 15 of the Illinois Pension Code was a community college
26 district subject to Article VII of the Public Community

1 College Act) and was eligible to participate in a group
2 health benefit plan as an employee during the time of
3 employment with a community college district (other than a
4 community college district subject to Article VII of the
5 Public Community College Act) or an association of
6 community college boards, or (ii) is the survivor of a
7 person described in item (i).

8 (aa) "Community college dependent beneficiary" means a
9 person who:

10 (1) is not a "member" or "dependent" as defined in this
11 Section; and

12 (2) is a community college benefit recipient's: (A)
13 spouse, (B) dependent parent who is receiving at least half
14 of his or her support from the community college benefit
15 recipient, or (C) unmarried natural or adopted child who is
16 (i) under age 19, or (ii) enrolled as a full-time student
17 in an accredited school, financially dependent upon the
18 community college benefit recipient, eligible to be
19 claimed as a dependent for income tax purposes and under
20 age 23, or (iii) age 19 or over and mentally or physically
21 handicapped.

22 (bb) "Qualified child advocacy center" means any Illinois
23 child advocacy center and its administrative offices funded by
24 the Department of Children and Family Services, as defined by
25 the Children's Advocacy Center Act (55 ILCS 80/), approved by
26 the Director and participating in a program created under

1 subsection (n) of Section 10.

2 (Source: P.A. 93-205, eff. 1-1-04; 93-839, eff. 7-30-04;
3 93-1067, eff. 1-15-05; 94-32, eff. 6-15-05; 94-82, eff. 1-1-06;
4 94-860, eff. 6-16-06; revised 8-3-06.)

5 Section 15. The Disaster Relief Act is amended by changing
6 Section 3 as follows:

7 (15 ILCS 30/3) (from Ch. 127, par. 293.3)

8 Sec. 3. Whenever funds regularly appropriated to the State
9 and local governmental bodies for disaster response and
10 recovery are insufficient to provide services, and when the
11 Governor has declared a disaster by proclamation in accordance
12 with Section 7 of the Illinois Emergency Management Agency Act
13 or any successor Act, the Governor may draw upon the Disaster
14 Relief Fund in order to provide services or to reimburse local
15 governmental bodies furnishing services. The fund may be used
16 for the payment of emergency employees, for the payment of the
17 Illinois National Guard or Naval Militia when called to active
18 duty, for disaster-related expenses of State Agencies and
19 Departments, and for the emergency purchase or renting of
20 equipment and commodities. The fund shall be used for
21 furnishing emergency services and relief to the disaster area
22 as a whole and shall not be used to provide private relief to
23 persons sustaining property damages or personal injury as a
24 result of a disaster.

1 (Source: P.A. 87-168.)

2 Section 20. The Department of Central Management Services
3 Law of the Civil Administrative Code of Illinois is amended by
4 changing Section 405-105 as follows:

5 (20 ILCS 405/405-105) (was 20 ILCS 405/64.1)

6 Sec. 405-105. Fidelity, surety, property, and casualty
7 insurance. The Department shall establish and implement a
8 program to coordinate the handling of all fidelity, surety,
9 property, and casualty insurance exposures of the State and the
10 departments, divisions, agencies, branches, and universities
11 of the State. In performing this responsibility, the Department
12 shall have the power and duty to do the following:

13 (1) Develop and maintain loss and exposure data on all
14 State property.

15 (2) Study the feasibility of establishing a self-insurance
16 plan for State property and prepare estimates of the costs of
17 reinsurance for risks beyond the realistic limits of the
18 self-insurance.

19 (3) Prepare a plan for centralizing the purchase of
20 property and casualty insurance on State property under a
21 master policy or policies and purchase the insurance contracted
22 for as provided in the Illinois Purchasing Act.

23 (4) Evaluate existing provisions for fidelity bonds
24 required of State employees and recommend changes that are

1 appropriate commensurate with risk experience and the
2 determinations respecting self-insurance or reinsurance so as
3 to permit reduction of costs without loss of coverage.

4 (5) Investigate procedures for inclusion of school
5 districts, public community college districts, and other units
6 of local government in programs for the centralized purchase of
7 insurance.

8 (6) Implement recommendations of the State Property
9 Insurance Study Commission that the Department finds necessary
10 or desirable in the performance of its powers and duties under
11 this Section to achieve efficient and comprehensive risk
12 management.

13 (7) Prepare and, in the discretion of the Director,
14 implement a plan providing for the purchase of public liability
15 insurance or for self-insurance for public liability or for a
16 combination of purchased insurance and self-insurance for
17 public liability (i) covering the State and drivers of motor
18 vehicles owned, leased, or controlled by the State of Illinois
19 pursuant to the provisions and limitations contained in the
20 Illinois Vehicle Code, (ii) covering other public liability
21 exposures of the State and its employees within the scope of
22 their employment, and (iii) covering drivers of motor vehicles
23 not owned, leased, or controlled by the State but used by a
24 State employee on State business, in excess of liability
25 covered by an insurance policy obtained by the owner of the
26 motor vehicle or in excess of the dollar amounts that the

1 Department shall determine to be reasonable. Any contract of
2 insurance let under this Law shall be by bid in accordance with
3 the procedure set forth in the Illinois Purchasing Act. Any
4 provisions for self-insurance shall conform to subdivision
5 (11).

6 The term "employee" as used in this subdivision (7) and in
7 subdivision (11) means a person while in the employ of the
8 State who is a member of the staff or personnel of a State
9 agency, bureau, board, commission, committee, department,
10 university, or college or who is a State officer, elected
11 official, commissioner, member of or ex officio member of a
12 State agency, bureau, board, commission, committee,
13 department, university, or college, or a member of the National
14 Guard or Naval Militia while on active duty pursuant to orders
15 of the Governor of the State of Illinois, or any other person
16 while using a licensed motor vehicle owned, leased, or
17 controlled by the State of Illinois with the authorization of
18 the State of Illinois, provided the actual use of the motor
19 vehicle is within the scope of that authorization and within
20 the course of State service.

21 Subsequent to payment of a claim on behalf of an employee
22 pursuant to this Section and after reasonable advance written
23 notice to the employee, the Director may exclude the employee
24 from future coverage or limit the coverage under the plan if
25 (i) the Director determines that the claim resulted from an
26 incident in which the employee was grossly negligent or had

1 engaged in willful and wanton misconduct or (ii) the Director
2 determines that the employee is no longer an acceptable risk
3 based on a review of prior accidents in which the employee was
4 at fault and for which payments were made pursuant to this
5 Section.

6 The Director is authorized to promulgate administrative
7 rules that may be necessary to establish and administer the
8 plan.

9 Appropriations from the Road Fund shall be used to pay auto
10 liability claims and related expenses involving employees of
11 the Department of Transportation, the Illinois State Police,
12 and the Secretary of State.

13 (8) Charge, collect, and receive from all other agencies of
14 the State government fees or monies equivalent to the cost of
15 purchasing the insurance.

16 (9) Establish, through the Director, charges for risk
17 management services rendered to State agencies by the
18 Department. The State agencies so charged shall reimburse the
19 Department by vouchers drawn against their respective
20 appropriations. The reimbursement shall be determined by the
21 Director as amounts sufficient to reimburse the Department for
22 expenditures incurred in rendering the service.

23 The Department shall charge the employing State agency or
24 university for workers' compensation payments for temporary
25 total disability paid to any employee after the employee has
26 received temporary total disability payments for 120 days if

1 the employee's treating physician has issued a release to
2 return to work with restrictions and the employee is able to
3 perform modified duty work but the employing State agency or
4 university does not return the employee to work at modified
5 duty. Modified duty shall be duties assigned that may or may
6 not be delineated as part of the duties regularly performed by
7 the employee. Modified duties shall be assigned within the
8 prescribed restrictions established by the treating physician
9 and the physician who performed the independent medical
10 examination. The amount of all reimbursements shall be
11 deposited into the Workers' Compensation Revolving Fund which
12 is hereby created as a revolving fund in the State treasury. In
13 addition to any other purpose authorized by law, moneys in the
14 Fund shall be used, subject to appropriation, to pay these or
15 other temporary total disability claims of employees of State
16 agencies and universities.

17 Beginning with fiscal year 1996, all amounts recovered by
18 the Department through subrogation in workers' compensation
19 and workers' occupational disease cases shall be deposited into
20 the Workers' Compensation Revolving Fund created under this
21 subdivision (9).

22 (10) Establish rules, procedures, and forms to be used by
23 State agencies in the administration and payment of workers'
24 compensation claims. The Department shall initially evaluate
25 and determine the compensability of any injury that is the
26 subject of a workers' compensation claim and provide for the

1 administration and payment of such a claim for all State
2 agencies. The Director may delegate to any agency with the
3 agreement of the agency head the responsibility for evaluation,
4 administration, and payment of that agency's claims.

5 (11) Any plan for public liability self-insurance
6 implemented under this Section shall provide that (i) the
7 Department shall attempt to settle and may settle any public
8 liability claim filed against the State of Illinois or any
9 public liability claim filed against a State employee on the
10 basis of an occurrence in the course of the employee's State
11 employment; (ii) any settlement of such a claim must be
12 approved by the Director and, in cases of settlements exceeding
13 \$100,000, by the Governor; and (iii) a settlement of any public
14 liability claim against the State or a State employee shall
15 require an unqualified release of any right of action against
16 the State and the employee for acts within the scope of the
17 employee's employment giving rise to the claim.

18 Whenever and to the extent that a State employee operates a
19 motor vehicle or engages in other activity covered by
20 self-insurance under this Section, the State of Illinois shall
21 defend, indemnify, and hold harmless the employee against any
22 claim in tort filed against the employee for acts or omissions
23 within the scope of the employee's employment in any proper
24 judicial forum and not settled pursuant to this subdivision
25 (11), provided that this obligation of the State of Illinois
26 shall not exceed a maximum liability of \$2,000,000 for any

1 single occurrence in connection with the operation of a motor
2 vehicle or \$100,000 per person per occurrence for any other
3 single occurrence, or \$500,000 for any single occurrence in
4 connection with the provision of medical care by a licensed
5 physician employee.

6 Any claims against the State of Illinois under a
7 self-insurance plan that are not settled pursuant to this
8 subdivision (11) shall be heard and determined by the Court of
9 Claims and may not be filed or adjudicated in any other forum.
10 The Attorney General of the State of Illinois or the Attorney
11 General's designee shall be the attorney with respect to all
12 public liability self-insurance claims that are not settled
13 pursuant to this subdivision (11) and therefore result in
14 litigation. The payment of any award of the Court of Claims
15 entered against the State relating to any public liability
16 self-insurance claim shall act as a release against any State
17 employee involved in the occurrence.

18 (12) Administer a plan the purpose of which is to make
19 payments on final settlements or final judgments in accordance
20 with the State Employee Indemnification Act. The plan shall be
21 funded through appropriations from the General Revenue Fund
22 specifically designated for that purpose, except that
23 indemnification expenses for employees of the Department of
24 Transportation, the Illinois State Police, and the Secretary of
25 State shall be paid from the Road Fund. The term "employee" as
26 used in this subdivision (12) has the same meaning as under

1 subsection (b) of Section 1 of the State Employee
2 Indemnification Act. Subject to sufficient appropriation, the
3 Director shall approve payment of any claim presented to the
4 Director that is supported by a final settlement or final
5 judgment when the Attorney General and the chief officer of the
6 public body against whose employee the claim or cause of action
7 is asserted certify to the Director that the claim is in
8 accordance with the State Employee Indemnification Act and that
9 they approve of the payment. In no event shall an amount in
10 excess of \$150,000 be paid from this plan to or for the benefit
11 of any claimant.

12 (13) Administer a plan the purpose of which is to make
13 payments on final settlements or final judgments for employee
14 wage claims in situations where there was an appropriation
15 relevant to the wage claim, the fiscal year and lapse period
16 have expired, and sufficient funds were available to pay the
17 claim. The plan shall be funded through appropriations from the
18 General Revenue Fund specifically designated for that purpose.

19 Subject to sufficient appropriation, the Director is
20 authorized to pay any wage claim presented to the Director that
21 is supported by a final settlement or final judgment when the
22 chief officer of the State agency employing the claimant
23 certifies to the Director that the claim is a valid wage claim
24 and that the fiscal year and lapse period have expired. Payment
25 for claims that are properly submitted and certified as valid
26 by the Director shall include interest accrued at the rate of

1 7% per annum from the forty-fifth day after the claims are
2 received by the Department or 45 days from the date on which
3 the amount of payment is agreed upon, whichever is later, until
4 the date the claims are submitted to the Comptroller for
5 payment. When the Attorney General has filed an appearance in
6 any proceeding concerning a wage claim settlement or judgment,
7 the Attorney General shall certify to the Director that the
8 wage claim is valid before any payment is made. In no event
9 shall an amount in excess of \$150,000 be paid from this plan to
10 or for the benefit of any claimant.

11 Nothing in Public Act 84-961 shall be construed to affect
12 in any manner the jurisdiction of the Court of Claims
13 concerning wage claims made against the State of Illinois.

14 (14) Prepare and, in the discretion of the Director,
15 implement a program for self-insurance for official fidelity
16 and surety bonds for officers and employees as authorized by
17 the Official Bond Act.

18 (Source: P.A. 93-839, eff. 7-30-04.)

19 Section 25. The Personnel Code is amended by changing
20 Section 4c as follows:

21 (20 ILCS 415/4c) (from Ch. 127, par. 63b104c)

22 Sec. 4c. General exemptions. The following positions in
23 State service shall be exempt from jurisdictions A, B, and C,
24 unless the jurisdictions shall be extended as provided in this

1 Act:

2 (1) All officers elected by the people.

3 (2) All positions under the Lieutenant Governor,
4 Secretary of State, State Treasurer, State Comptroller,
5 State Board of Education, Clerk of the Supreme Court,
6 Attorney General, and State Board of Elections.

7 (3) Judges, and officers and employees of the courts,
8 and notaries public.

9 (4) All officers and employees of the Illinois General
10 Assembly, all employees of legislative commissions, all
11 officers and employees of the Illinois Legislative
12 Reference Bureau, the Legislative Research Unit, and the
13 Legislative Printing Unit.

14 (5) All positions in the Illinois National Guard,
15 Illinois Naval Militia, and Illinois State Guard, paid from
16 federal funds or positions in the State Military Service
17 filled by enlistment and paid from State funds.

18 (6) All employees of the Governor at the executive
19 mansion and on his immediate personal staff.

20 (7) Directors of Departments, the Adjutant General,
21 the Assistant Adjutant General, the Director of the
22 Illinois Emergency Management Agency, members of boards
23 and commissions, and all other positions appointed by the
24 Governor by and with the consent of the Senate.

25 (8) The presidents, other principal administrative
26 officers, and teaching, research and extension faculties

1 of Chicago State University, Eastern Illinois University,
2 Governors State University, Illinois State University,
3 Northeastern Illinois University, Northern Illinois
4 University, Western Illinois University, the Illinois
5 Community College Board, Southern Illinois University,
6 Illinois Board of Higher Education, University of
7 Illinois, State Universities Civil Service System,
8 University Retirement System of Illinois, and the
9 administrative officers and scientific and technical staff
10 of the Illinois State Museum.

11 (9) All other employees except the presidents, other
12 principal administrative officers, and teaching, research
13 and extension faculties of the universities under the
14 jurisdiction of the Board of Regents and the colleges and
15 universities under the jurisdiction of the Board of
16 Governors of State Colleges and Universities, Illinois
17 Community College Board, Southern Illinois University,
18 Illinois Board of Higher Education, Board of Governors of
19 State Colleges and Universities, the Board of Regents,
20 University of Illinois, State Universities Civil Service
21 System, University Retirement System of Illinois, so long
22 as these are subject to the provisions of the State
23 Universities Civil Service Act.

24 (10) The State Police so long as they are subject to
25 the merit provisions of the State Police Act.

26 (11) The scientific staff of the State Scientific

1 Surveys and the Waste Management and Research Center.

2 (12) The technical and engineering staffs of the
3 Department of Transportation, the Department of Nuclear
4 Safety, the Pollution Control Board, and the Illinois
5 Commerce Commission, and the technical and engineering
6 staff providing architectural and engineering services in
7 the Department of Central Management Services.

8 (13) All employees of the Illinois State Toll Highway
9 Authority.

10 (14) The Secretary of the Illinois Workers'
11 Compensation Commission.

12 (15) All persons who are appointed or employed by the
13 Director of Insurance under authority of Section 202 of the
14 Illinois Insurance Code to assist the Director of Insurance
15 in discharging his responsibilities relating to the
16 rehabilitation, liquidation, conservation, and dissolution
17 of companies that are subject to the jurisdiction of the
18 Illinois Insurance Code.

19 (16) All employees of the St. Louis Metropolitan Area
20 Airport Authority.

21 (17) All investment officers employed by the Illinois
22 State Board of Investment.

23 (18) Employees of the Illinois Young Adult
24 Conservation Corps program, administered by the Illinois
25 Department of Natural Resources, authorized grantee under
26 Title VIII of the Comprehensive Employment and Training Act

1 of 1973, 29 USC 993.

2 (19) Seasonal employees of the Department of
3 Agriculture for the operation of the Illinois State Fair
4 and the DuQuoin State Fair, no one person receiving more
5 than 29 days of such employment in any calendar year.

6 (20) All "temporary" employees hired under the
7 Department of Natural Resources' Illinois Conservation
8 Service, a youth employment program that hires young people
9 to work in State parks for a period of one year or less.

10 (21) All hearing officers of the Human Rights
11 Commission.

12 (22) All employees of the Illinois Mathematics and
13 Science Academy.

14 (23) All employees of the Kankakee River Valley Area
15 Airport Authority.

16 (24) The commissioners and employees of the Executive
17 Ethics Commission.

18 (25) The Executive Inspectors General, including
19 special Executive Inspectors General, and employees of
20 each Office of an Executive Inspector General.

21 (26) The commissioners and employees of the
22 Legislative Ethics Commission.

23 (27) The Legislative Inspector General, including
24 special Legislative Inspectors General, and employees of
25 the Office of the Legislative Inspector General.

26 (28) The Auditor General's Inspector General and

1 employees of the Office of the Auditor General's Inspector
2 General.

3 (Source: P.A. 93-617, eff. 12-9-03; 93-721, eff. 1-1-05;
4 93-1091, eff. 3-29-05.)

5 Section 30. The Helping Heroes Child Care Program Act is
6 amended by changing Section 10 as follows:

7 (20 ILCS 1325/10)

8 (Section scheduled to be repealed on July 1, 2010)

9 Sec. 10. Program established.

10 (a) The Helping Heroes Child Care Program is established
11 for the purpose of providing vouchers for child care to
12 Illinois families who have one or more parents deployed to Iraq
13 or Afghanistan by the armed services. The Department shall
14 administer the program. The Department shall implement the
15 program only if federal funding is made available for that
16 purpose. Any such federal moneys received by the State shall be
17 deposited into the Fund for Child Care for Deployed Military
18 Personnel, which is created as a special fund in the State
19 treasury. Moneys in the Fund shall be appropriated to the
20 Department for the purpose of administering this Act.

21 (b) Any Illinois resident who (i) is serving in the active
22 military, reserves, ~~or~~ National Guard, or Naval Militia, (ii)
23 has been deployed to Iraq or Afghanistan by the armed services,
24 and (iii) meets the income eligibility criteria established by

1 the Department by rule is eligible for a child care voucher
2 under the program. A family that received child care assistance
3 before the parent's deployment to Iraq or Afghanistan is
4 eligible only for a voucher for the cost of any additional
5 hours of child care that are necessary by reason of that
6 deployment. A family is not eligible for a child care voucher
7 under the program if the family receives child care services
8 from the United States military.

9 (Source: P.A. 94-35, eff. 6-15-05.)

10 Section 35. The Military Code of Illinois is amended by
11 changing Sections 1.01, 3, 4, 7, 10, 11, 12, 18, 20, 22, 22-1,
12 22-9, 22-10, 24.1, 25, 27, 28.6, 28.9, the heading of Article
13 V-A, and Sections 30.1, 30.5, 30.10, 30.15, 30.20, 34, 35, 37,
14 40, 41, 44, 46, 47, 48, 49, 52, 53, 62, 65, 68, 69, 71, 74, 82,
15 83, 84, 85, 86, 87, 88, 89, 90, 92.1, 93, 94a, 96, 98, 100, and
16 101 and by adding Sections 6, 6.1, 6.2, 6.3, the heading of
17 Article VI, and Sections 31, 32, 63, and 93.1 as follows:

18 (20 ILCS 1805/1.01) (from Ch. 129, par. 220.001)

19 Sec. 1.01. This Act may be cited as the Military and Naval
20 Code of Illinois.

21 (Source: P.A. 86-1475.)

22 (20 ILCS 1805/3) (from Ch. 129, par. 220.03)

23 Sec. 3. Whenever all or a portion of the Illinois National

1 Guard or Illinois Naval Militia is called or ordered into the
2 active military service of the United States by the President
3 of the United States or the Congress of the United States it
4 shall be the duty of the Governor as Commander-in-Chief to
5 furnish such troops, and the Governor as Commander-in-Chief
6 may, by his proclamation, organize the Illinois State Guard
7 under the provisions of the Illinois State Guard Law.

8 (Source: P.A. 85-1241.)

9 (20 ILCS 1805/4) (from Ch. 129, par. 220.04)

10 Sec. 4. The intent of this Act and all Acts of the State of
11 Illinois affecting the Illinois National Guard, Illinois Naval
12 Militia, and Unorganized Militia is to conform to all Acts and
13 regulations of the United States affecting the same subjects,
14 and all Acts of the State of Illinois shall be construed to
15 effect this purpose.

16 (Source: P.A. 85-1241.)

17 (20 ILCS 1805/6 new)

18 Sec. 6. The Naval force of the State is hereby designated
19 the Illinois Naval Militia.

20 (20 ILCS 1805/6.1 new)

21 Sec. 6.1. Commander, Illinois Naval Militia. The Illinois
22 Naval Militia shall be commanded by the Commander, Illinois
23 Naval Militia. The Commander-in-Chief shall appoint the

1 Commander, Illinois Naval Militia, with a grade not to exceed
2 Rear Admiral, Upper Half. The Commander, Illinois Naval
3 Militia, shall be appointed from among career naval officers of
4 the United States Navy, United States Marine Corps, or United
5 States Coast Guard, or their reserve components, including
6 retired officers.

7 (20 ILCS 1805/6.2 new)

8 Sec. 6.2. Advisement. The Commander, Illinois Naval
9 Militia, shall advise the Commander-in-Chief on naval and
10 maritime matters.

11 (20 ILCS 1805/6.3 new)

12 Sec. 6.3. Relationship with United States Armed Forces. The
13 Commander, Illinois Naval Militia, shall maintain liaison with
14 the United States Navy, United States Marine Corps, United
15 States Coast Guard, and their reserve components.

16 (20 ILCS 1805/7) (from Ch. 129, par. 220.07)

17 Sec. 7. The Organized Militia shall consist of the Illinois
18 National Guard and the Illinois Naval Militia. There shall be
19 no racial segregation nor shall there be any discrimination in
20 the service of any detachment, company, regiment, division,
21 department or any other subdivision of the Illinois National
22 Guard or the Illinois Naval Militia because of race, creed, or
23 color.

1 (Source: P.A. 85-1241.)

2 (20 ILCS 1805/10) (from Ch. 129, par. 220.10)

3 Sec. 10. The uniforms, arms and equipment of all personnel
4 of the Illinois National Guard or the Illinois Naval Militia
5 shall be exempt from all suits, distresses, executions or sales
6 for debts or payment of taxes. Personnel shall in all cases
7 except treason, felony, or breach of peace, be privileged from
8 arrest and imprisonment by civil authority while under orders
9 in the active service of the State, from the date of the
10 issuing of such orders to the time when such service shall
11 cease.

12 (Source: P.A. 85-1241.)

13 (20 ILCS 1805/11) (from Ch. 129, par. 220.11)

14 Sec. 11. The Governor of the State is Commander-in-Chief of
15 the military and naval forces of the State.

16 (Source: P.A. 85-1241.)

17 (20 ILCS 1805/12) (from Ch. 129, par. 220.12)

18 Sec. 12. The Commander-in-Chief may appoint at his
19 discretion 6 ~~four~~ personal aides as members of his staff and
20 may commission such aides in grades not above that of Colonel
21 or naval Captain.

22 (Source: P.A. 85-1241.)

1 (20 ILCS 1805/18) (from Ch. 129, par. 220.18)

2 Sec. 18. The term "military service" used herein as
3 qualification for appointment of officers of the Illinois
4 National Guard or the Illinois Naval Militia is defined to mean
5 such military or naval service credited as cumulative years of
6 service for pay purposes in accordance with the laws of the
7 United States and the rules and regulations based thereon.

8 (Source: P.A. 85-1241.)

9 (20 ILCS 1805/20) (from Ch. 129, par. 220.20)

10 Sec. 20. There is hereby established in the Executive
11 Branch of the State Government, a principal department which
12 shall be known as the Department of Military Affairs. The
13 Department of Military Affairs shall consist of The Adjutant
14 General, Chief of Staff; an Assistant Adjutant General for
15 Army; an Assistant Adjutant General for Air; a Commander,
16 Illinois Naval Militia; and the number of military, naval, and
17 civilian employees required. It is the channel of communication
18 between the Federal Government and the State of Illinois on all
19 matters pertaining to the State military and naval forces.

20 (Source: P.A. 85-1241.)

21 (20 ILCS 1805/22) (from Ch. 129, par. 220.22)

22 Sec. 22. The Adjutant General shall be charged with
23 carrying out the policies of the Commander-in-Chief and shall
24 issue orders in his name. Orders of The Adjutant General shall

1 be considered as emanating from the Commander-in-Chief.

2 (a) He shall be the immediate adviser of the
3 Commander-in-Chief on all matters relating to the militia and
4 shall be charged with the planning, development and execution
5 of the program of the military and naval forces of the State.
6 He shall be responsible for the preparation and execution of
7 plans, for organizing, supplying, equipping and mobilizing the
8 Organized Militia, for use in the national defense, and for
9 State defense, and emergencies.

10 (b) He shall hold major organization commanders
11 responsible for the training of their commands, and shall issue
12 all orders and instructions for the government of the militia
13 and of the officers, warrant officers, and enlisted personnel
14 therein.

15 (c) He shall make such returns and reports as may be
16 prescribed by the Commander-in-Chief or required by the laws or
17 regulations of the State or of the United States.

18 (d) The Adjutant General shall be the head of the
19 Department of Military Affairs of the Executive Branch of the
20 government of the State.

21 (Source: P.A. 85-1241.)

22 (20 ILCS 1805/22-1) (from Ch. 129, par. 220.22-1)

23 Sec. 22-1. The Adjutant General has the power and authority
24 to enter into contracts and agreements in the name of the State
25 of Illinois with the Federal government on any and all matters

1 relating to the organizing, training, equipping, quartering
2 and maintenance of the Illinois National Guard and the Illinois
3 Naval Militia.

4 (Source: P.A. 85-1241.)

5 (20 ILCS 1805/22-9)

6 Sec. 22-9. Power to make grants from the Illinois Military
7 Family Relief Fund. Subject to appropriation, the Department of
8 Military Affairs shall have the power to make grants from the
9 Illinois Military Family Relief Fund, a special fund created in
10 the State treasury, to single persons who are members of the
11 Illinois National Guard or Naval Militia or Illinois residents
12 who are members of the reserves of the armed forces of the
13 United States and who have been called to active duty as a
14 result of the September 11, 2001 terrorist attacks and to
15 families of persons who are members of the Illinois National
16 Guard or the Illinois Naval Militia or Illinois residents who
17 are members of the reserves of the armed forces of the United
18 States and who have been called to active duty as a result of
19 the September 11, 2001 terrorist attacks. The Department of
20 Military Affairs shall establish eligibility criteria for the
21 grants by rule.

22 In addition to amounts transferred into the Fund under
23 Section 510 of the Illinois Income Tax Act, the State Treasurer
24 shall accept and deposit into the Fund all gifts, grants,
25 transfers, appropriations, and other amounts from any legal

1 source, public or private, that are designated for deposit into
2 the Fund.

3 (Source: P.A. 92-886, eff. 2-7-03; 93-506, eff. 8-11-03;
4 93-976, eff. 8-20-04.)

5 (20 ILCS 1805/22-10)

6 Sec. 22-10. Notice of provisions of Service Member's
7 Employment Tenure Act. Whenever a member of the Illinois
8 National Guard or Naval Militia is called to active military
9 duty pursuant to a declaration of war by the Congress or by the
10 President under the War Powers Act or by the Governor in time
11 of declared emergency or for quelling civil insurrection, the
12 Adjutant General shall ensure that the member is expeditiously
13 given written notice of the provisions of Sections 4 and 4.5 of
14 the Service Member's Employment Tenure Act.

15 (Source: P.A. 94-162, eff. 7-11-05.)

16 (20 ILCS 1805/24.1) (from Ch. 129, par. 220.24-1)

17 Sec. 24.1. The Adjutant General is authorized to negotiate
18 and enter into contracts on behalf of all civilian employees of
19 the Army National Guard, ~~and~~ Air National Guard, and Naval
20 Militia under his jurisdiction for membership in an employee
21 retirement, disability or death benefits system, and
22 membership in a group health insurance program, and to enter
23 into agreements with the Secretary of Defense of the United
24 States of America for withholding sums from the compensation of

1 such civilian employees for contributions to such system or
2 program. The Adjutant General is also authorized to designate
3 who shall receive the sums withheld for contributions to the
4 system or program authorized by this Section.

5 (Source: Laws 1965, p. 2574.)

6 (20 ILCS 1805/25) (from Ch. 129, par. 220.25)

7 Sec. 25. The Adjutant General shall have charge of and
8 carefully preserve the colors, flags, guidons and military
9 trophies of war belonging to the State. He may, for the purpose
10 of enabling wider public display, make loans of these items to
11 the Federal government, other State governments, and to
12 recognized museums. He shall furnish, at the expense of the
13 State, blanks and forms, and such military and naval
14 publications as required.

15 Prior to September 1 of each year, or at such other time as
16 prescribed by the Governor, the Adjutant General shall file
17 with the Office of the Governor a report listing each item
18 loaned during the previous fiscal year and prior fiscal years,
19 the terms and conditions of each loan, and the federal or State
20 governmental office or recognized museum to which each item has
21 been loaned.

22 (Source: P.A. 91-826, eff. 6-13-00.)

23 (20 ILCS 1805/27) (from Ch. 129, par. 220.27)

24 Sec. 27. The Adjutant General shall be responsible for and

1 have supervision of all military installations, facilities,
2 armories, grounds, buildings, property, and equipment of the
3 Illinois Army, ~~and~~ Air National Guard, and Naval Militia.

4 (Source: P.A. 85-1241.)

5 (20 ILCS 1805/28.6)

6 Sec. 28.6. Policy.

7 (a) A member of the Army National Guard, ~~or~~ the Air
8 National Guard, or the Naval Militia may be ordered to funeral
9 honors duty in accordance with this Article. That member shall
10 receive an allowance of \$100 for any day on which a minimum of
11 2 hours of funeral honors duty is performed. Members of the
12 Illinois National Guard or Naval Militia ordered to funeral
13 honors duty in accordance with this Article are considered to
14 be in the active service of the State for all purposes except
15 for pay, and the provisions of Sections 52, 53, 54, 55, and 56
16 of the Military Code of Illinois apply if a member of the
17 Illinois National Guard or the Illinois Naval Militia is
18 injured or disabled in the course of those duties.

19 (b) The Adjutant General may provide support for other
20 authorized providers who volunteer to participate in a funeral
21 honors detail conducted on behalf of the Governor. This support
22 is limited to transportation, reimbursement for
23 transportation, expenses, materials, and training.

24 (c) On or after July 1, 2006, if the Adjutant General
25 determines that Illinois National Guard or Naval Militia

1 personnel are not available to perform military funeral honors
2 in accordance with this Article, the Adjutant General may
3 authorize another appropriate organization to provide one or
4 more of its members to perform those honors and, subject to
5 appropriations for that purpose, shall authorize the payment of
6 a \$100 stipend to the organization.

7 (Source: P.A. 94-251, eff. 1-1-06; 94-359, eff. 7-1-06; revised
8 9-14-06.)

9 (20 ILCS 1805/28.9)

10 Sec. 28.9. Availability of funds. Nothing in this Article
11 establishes any entitlement to military funeral honors if the
12 Adjutant General determines that Illinois National Guard,
13 Naval Militia, or other appropriate personnel are not available
14 to perform those honors or if adequate appropriated funds are
15 not available to fund this program.

16 (Source: P.A. 94-359, eff. 7-1-06.)

17 (20 ILCS 1805/Art. V-A heading)

18 ARTICLE V-A. NATIONAL GUARD AND NAVAL MILITIA EMPLOYMENT RIGHTS

19 (20 ILCS 1805/30.1)

20 Sec. 30.1. Article short title. This Article may be cited
21 as the Illinois National Guard and Naval Militia Employment
22 Rights Law.

23 (Source: P.A. 92-716, eff. 7-24-02.)

1 (20 ILCS 1805/30.5)

2 Sec. 30.5. Public policy. As a guide to the interpretation
3 and application of this Article, the public policy of the State
4 is declared as follows:

5 The United States has provided for the reemployment rights
6 of members of the Reserve Components of the armed forces, and
7 of the National Guard of the states, while serving in duty or
8 training statuses pursuant to Title 10 or 32 of the United
9 States Code, by enacting the Uniformed Services Employment and
10 Reemployment Rights Act, codified at Title 38, United States
11 Code, Chapter 43. The Uniformed Services Employment and
12 Reemployment Rights Act, however, does not provide any such
13 protection to members of the National Guard or Naval Militia
14 serving the states, including the State of Illinois, in a State
15 Active Duty status pursuant to orders of the Governor.

16 The United States has also provided relief from certain
17 civil obligations for personnel of the United States armed
18 forces serving on federal active duty under Title 10 of the
19 United States Code, by enacting the Soldiers' and Sailors'
20 Civil Relief Act of 1940, codified at Title 50 Appendix, United
21 States Code, Sections 501-591. Members of the National Guard or
22 Naval Militia serving other than in such a federal active duty
23 status under Title 10 of the United States Code, however, are
24 not subject to, nor do they receive the protections of, the
25 Soldiers' and Sailors' Civil Relief Act of 1940.

1 As a constituent commonwealth of the United States, and in
2 accordance with the constitutions of the United States and of
3 the State of Illinois, the State of Illinois must provide for
4 the defense of its citizens and territory against domestic and
5 foreign threats, and the Illinois National Guard and Illinois
6 Naval Militia are ~~is an~~ essential parts ~~part~~ of the State's
7 ability to meet such threats. It is therefore declared to be
8 the policy of the State of Illinois (i) to ensure the readiness
9 of members of the National Guard and Naval Militia to execute
10 missions assigned by appropriate federal or State authorities
11 by guaranteeing adequate protections of their right to return
12 to civilian employment upon completion of State Active Duty and
13 (ii) to grant members of the National Guard and Naval Militia
14 relief from certain civil obligations while performing periods
15 of training or duty under Title 32 of the United States Code
16 and State Active Duty.

17 (Source: P.A. 92-716, eff. 7-24-02.)

18 (20 ILCS 1805/30.10)

19 Sec. 30.10. Definitions. In this Article:

20 "National Guard" has the definition provided by federal law
21 at 10 U.S.C. 101(c).

22 "Illinois National Guard" has the definition provided in
23 Sections 5 and 7 of this Code.

24 "Illinois Naval Militia" or "Naval Militia" has the
25 definition provided in Sections 6 and 7 of this Code.

1 "Federal active duty under Title 10 of the United States
2 Code" means active federal service of members of the National
3 Guard pursuant to any provision of Chapter 1209 of Title 10 of
4 the United States Code.

5 "Training or duty under Title 32 of the United States Code"
6 means active or inactive National Guard training or duty
7 performed pursuant to Chapter 5 of Title 32 of the United
8 States Code and pursuant to the orders of the Governor.

9 "State Active Duty" means National Guard duty performed in
10 the active service of any state or United States territory or
11 commonwealth in accordance with that jurisdiction's laws and
12 pursuant to the orders of the Governor concerned. It does not
13 refer to active duty performed pursuant to Chapter 5 of Title
14 32 of the United States Code and pursuant to the orders of the
15 Governor.

16 "Political subdivision" means any unit of local government
17 or school district.

18 (Source: P.A. 92-716, eff. 7-24-02.)

19 (20 ILCS 1805/30.15)

20 Sec. 30.15. National Guard or Naval Militia; State Active
21 Duty; reemployment rights.

22 (a) Any member of the National Guard or Naval Militia ("a
23 member") employed by a private employer in the State of
24 Illinois or by the State of Illinois or any political
25 subdivision of the State whose absence from a position of

1 employment is necessitated by reason of being called to State
2 Active Duty, whether or not voluntary, shall be entitled to
3 reemployment rights and benefits and other employment benefits
4 under this Article if:

5 (1) the member (or an appropriate officer of the
6 National Guard or Naval Militia in which the service is
7 performed) has given advance written or oral notice of the
8 service, if reasonably possible;

9 (2) the member reports to, or submits an application
10 for reemployment to, the employer in accordance with the
11 provisions of subsection (e); and

12 (3) the character of the member's service on State
13 Active Duty was honorable, under honorable conditions, or
14 otherwise characterized as satisfactory.

15 (b) No notice is required under subsection (a) if precluded
16 by military necessity, or if the giving of the notice is not
17 reasonably possible, under all relevant circumstances. A
18 written determination of military necessity for the purposes of
19 this subsection shall be made by the Adjutant General of
20 Illinois and shall not be subject to judicial review.

21 (c) An employer is not required to reemploy a member under
22 this Section if:

23 (1) the employer's circumstances have so changed as to
24 make such reemployment impossible or unreasonable, or if
25 reemployment would impose an undue hardship on the
26 employer; or

1 (2) the employment from which the member leaves to
2 serve in the National Guard or Naval Militia on State
3 Active Duty is for a brief, nonrecurrent period and there
4 is no reasonable expectation that the employment will
5 continue indefinitely or for a significant period.

6 (d) In any proceeding involving an issue of whether (i) any
7 reemployment referred to in subsection (c) is impossible or
8 unreasonable because of a change in an employer's
9 circumstances; (ii) any accommodation, training, or effort
10 referred to in subdivision (c)(1) would impose an undue
11 hardship on the employer; or (iii) the employment referred to
12 in subdivision (c)(2) is for a brief, nonrecurrent period and
13 there is no reasonable expectation that the employment will
14 continue indefinitely or for a significant period, the employer
15 has the burden of proving the impossibility or
16 unreasonableness, the undue hardship, or the brief or
17 nonrecurrent nature of the employment without a reasonable
18 expectation of continuing indefinitely or for a significant
19 period.

20 (e) Subject to subsection (f), a member referred to in
21 subsection (a) shall, upon completion of a period of State
22 Active Duty, notify the employer referred to in subsection (a)
23 of the member's intent to return to a position of employment
24 with the employer as follows:

25 (1) In the case of a member whose period of State
26 Active Duty was less than 31 days, by reporting to the

1 employer:

2 (A) not later than the beginning of the first full
3 regularly scheduled work period on the first full
4 calendar day following completion of the period of
5 State Active Duty and the expiration of 8 hours after a
6 period allowing for safe transportation of the member
7 from the place of that duty to the member's residence;
8 or

9 (B) as soon as possible after the expiration of the
10 8-hour period referred to in paragraph (A), if
11 reporting within that period is impossible or
12 unreasonable through no fault of the member.

13 (2) In the case of a member whose period of State
14 Active Duty was more than 30 days but less than 180 days,
15 by submitting an application for reemployment with the
16 employer not less than 14 days after completion of the
17 period of State Active Duty, or if submitting the
18 application within that period is impossible or
19 unreasonable through no fault of the member, the next full
20 calendar day when submission of the application becomes
21 possible.

22 (3) In the case of a member whose period of State
23 Active Duty was 180 days or more, by submitting an
24 application for reemployment with the employer not later
25 than 90 days after completion of the period of service.

26 (f) A member who is hospitalized for, or convalescing from,

1 an illness or injury incurred in, or aggravated during, the
2 performance of a period of State Active Duty shall, at the end
3 of the period that is necessary for the member to recover from
4 the illness or injury, report to the member's employer or
5 submit an application for reemployment with the employer. The
6 period of recovery shall not exceed 2 years, except that the
7 2-year period shall be extended by the minimum time required to
8 accommodate the circumstances beyond the member's control
9 which make reporting within the 2-year period impossible or
10 unreasonable.

11 (g) A member who fails to report or apply for employment or
12 reemployment within the appropriate period specified in this
13 Section shall not automatically forfeit his or her rights and
14 benefits under subsection (a), but shall be subject to the
15 conduct rules, established policy, and general practices of the
16 employer pertaining to explanations and discipline with
17 respect to absence from scheduled work.

18 (h) A member who submits an application for reemployment in
19 accordance with this Article shall, upon the request of the
20 employer, provide to the employer documentation to establish
21 that:

22 (1) the member's application is timely; and

23 (2) the character of the member's service was
24 honorable, under honorable conditions, or otherwise
25 satisfactory.

26 The failure of a member to provide documentation as

1 prescribed in this subsection may not be the basis for denying
2 reemployment if the failure occurs because the documentation
3 does not exist or is not readily available at the time of the
4 employer's request. If, after reemployment, documentation
5 becomes available that establishes that the member does not
6 meet one or more of the requirements in paragraph (1) or (2),
7 the employer may terminate the member's employment in
8 accordance with the conduct rules, established policy, and
9 general practices of the employer pertaining to explanation and
10 discipline with respect to absence from scheduled work. An
11 employer may not delay or attempt to defeat a reemployment
12 obligation by demanding documentation that does not exist or is
13 not then readily available.

14 (i) Except as otherwise provided by this subsection, a
15 member entitled to reemployment under this Article, upon
16 completion of a period of State Active Duty, shall be promptly
17 reemployed in the position of employment which he or she left
18 with the same increases in status, seniority, and wages that
19 were earned during his or her period of State Active Duty by
20 employees in like positions who were on the job at the time the
21 returning member entered State Active Duty, or to a position of
22 like seniority, status, and pay, unless the employer's
23 circumstances have so changed as to make it impossible or
24 unreasonable to do so.

25 If at the time of requesting reemployment, the member is no
26 longer physically, mentally, or otherwise qualified or able to

1 perform the duties of the position of employment which he or
2 she left due to disability acquired incident to his or her
3 service in State Active Duty, but is qualified and able to
4 perform the duties of any other position in the employ of the
5 employer, then the member shall be restored to that other
6 position, the duties of which he or she is qualified and able
7 to perform and that will provide him or her with like
8 seniority, status, and pay, or the nearest approximation
9 thereof consistent with the circumstances of the case.

10 If a member enters State Active Duty and the position of
11 employment which he or she left is filled by one or more
12 employees who are also members of the National Guard or Naval
13 Militia and who later enter State Active Duty, the members
14 shall, upon release from State Active Duty, be given preference
15 in the matter of reemployment in the order in which they
16 entered State Active Duty, and the employer shall not be
17 required to retain more than one of them in his or her employ.

18 (j) Except as otherwise provided in this Section, each
19 member in the employ of a private employer or of the State of
20 Illinois or a political subdivision of the State who, for the
21 purpose of entering State Active Duty, has left or leaves that
22 employment but who has been rejected for State Active Duty for
23 lack of proper qualifications, shall be restored by the
24 employer (i) to the position of employment which the member
25 left with the same seniority, status, and wage increases that
26 an employee who was employed in that position at the time the

1 member left to enter State Active Duty earned during the time
2 the member was absent from employment because of his or her
3 attempt to enter State Active Duty or (ii) to a position of
4 like seniority, status, and pay, provided that at the time of
5 the rejection for State Active Duty the member is qualified to
6 perform the duties of the position of employment which he or
7 she left and has made application for reemployment within the
8 time period specified in subsection (e) after receiving
9 official notice of the rejection for State Active Duty.

10 (Source: P.A. 92-716, eff. 7-24-02.)

11 (20 ILCS 1805/30.20)

12 Sec. 30.20. Reemployment; benefits.

13 (a) Any member of the National Guard or Naval Militia who
14 is reemployed or seeks reemployment to a position of employment
15 in accordance with the provisions of this Article, shall be
16 considered as having been on furlough or leave of absence
17 during his or her State Active Duty and shall be so reemployed
18 without loss of seniority and shall be entitled to participate
19 in insurance or other benefits offered by the employer pursuant
20 to established rules and practices relating to employees on
21 furlough or leave of absence in effect with the employer at the
22 time the member entered State Active Duty. The member shall not
23 be discharged from the position without cause within one year
24 after reemployment.

25 (b) If an employer provides health insurance, an exclusion

1 or waiting period may not be imposed in connection with
2 coverage of a health or physical condition of a member entitled
3 to participate in that insurance under this Section, or a
4 health or physical condition of any other person who is covered
5 by the insurance by reason of the coverage of that member, if:
6 (i) the condition arose before or during that member's period
7 of State Active Duty; (ii) an exclusion or waiting period would
8 not have been imposed for the condition during a period of
9 coverage resulting from participation by that member in the
10 insurance; and (iii) the condition of that member has not been
11 determined to be service connected.

12 (Source: P.A. 92-716, eff. 7-24-02.)

13 (20 ILCS 1805/Art. VI heading new)

14 ARTICLE VI. ORGANIZATION OF THE NAVAL MILITIA

15 (20 ILCS 1805/31 new)

16 Sec. 31. The Illinois Naval Militia shall consist of not
17 more than one Brigade or comparable unit or units as may be
18 from time to time authorized by the Commander-in-Chief and
19 shall be organized, equipped, disciplined, and governed in
20 conformity with the laws of the United States and the rules,
21 regulations, and tables based thereon.

22 (20 ILCS 1805/32 new)

23 Sec. 32. The Illinois Naval Militia shall not be considered

1 attached to any unit of the military forces of the State. When,
2 however, the Illinois Naval Militia or any part thereof is in
3 the field or afloat upon actual service, the Commander,
4 Illinois Naval Militia, or officers directed by the Commander
5 shall command the Naval Militia. Whenever operating or acting
6 in conjunction with the military forces of the State, the
7 senior officer present, according to the relative rank of
8 either force, shall command the whole unless otherwise
9 specially ordered or directed by the Commander-in-Chief or
10 other competent military or naval authority.

11 (20 ILCS 1805/34) (from Ch. 129, par. 220.34)

12 Sec. 34. Commissioned officers of the Illinois National
13 Guard and the Illinois Naval Militia shall be separated from
14 the active service in accordance with Federal laws and the
15 regulations published by the Secretary of Defense, except as
16 otherwise provided herein.

17 (Source: P.A. 85-1241.)

18 (20 ILCS 1805/35) (from Ch. 129, par. 220.35)

19 Sec. 35. Officers who become disabled from wounds, injuries
20 or illness, so as to be prevented from doing active service
21 thereafter, shall on recommendation of a retiring board of five
22 officers, two of whom shall be medical officers, be placed upon
23 the retired list. If such disability has been incurred directly
24 in the line of duty, such officer shall be retired with the

1 grade next higher than that held at the time such disability
2 was incurred but in no case higher than the grade of Major
3 General or Rear Admiral.

4 (Source: P.A. 85-1241.)

5 (20 ILCS 1805/37) (from Ch. 129, par. 220.37)

6 Sec. 37. The Commander-in-Chief shall make all
7 appointments in the commissioned rank in the Illinois National
8 Guard and Illinois Naval Militia. Commissions evidencing all
9 appointments shall be signed by the Governor and attested and
10 issued by The Adjutant General.

11 (Source: P.A. 85-1241.)

12 (20 ILCS 1805/40) (from Ch. 129, par. 220.40)

13 Sec. 40. Except where otherwise specified herein, all
14 officers now in active service or hereafter appointed, shall
15 hold their respective commissions until they are vacated by
16 resignation or retirement, or by acceptance of another
17 commission in the State military or naval service, or by
18 sentence of a general courts-martial, finding of a board of
19 officers under Section 42, Article VIII, or terminated under
20 Section 43, Article VIII hereof. Federal recognition with
21 commission in the National Guard of the United States is
22 established as a requirement for holding commission in the
23 active National Guard of Illinois; the commission of an officer
24 in the National Guard of Illinois will be terminated upon

1 failure to obtain or retain Federal recognition.

2 (Source: P.A. 85-1241.)

3 (20 ILCS 1805/41) (from Ch. 129, par. 220.41)

4 Sec. 41. Any commanding officer of the Illinois National
5 Guard or Illinois Naval Militia having under their command an
6 officer who is undesirable as an officer, for any reason other
7 than for physical disability, may recommend, through military
8 channels, that such officer be ordered before a board of
9 officers for investigation. Such recommendations shall fully
10 and clearly state the facts and reasons on which such
11 undesirability is based.

12 (Source: P.A. 85-1241.)

13 (20 ILCS 1805/44) (from Ch. 129, par. 220.44)

14 Sec. 44. The Commander-in-Chief shall make all
15 appointments in the grade of warrant officer in the Illinois
16 National Guard and Illinois Naval Militia. Warrants evidencing
17 all appointments shall be signed by the Governor and attested
18 and issued by The Adjutant General. The qualifications for
19 appointments of and the separation from service of warrant
20 officers shall be in accordance with the provisions of the laws
21 of the United States and the rules and regulations based
22 thereon.

23 (Source: P.A. 85-1241.)

1 (20 ILCS 1805/46) (from Ch. 129, par. 220.46)

2 Sec. 46. Qualification for enlistment in and separation
3 from service of enlisted personnel of the Illinois National
4 Guard and Illinois Naval Militia shall be in accordance with
5 the provisions of the laws of the United States and the rules
6 and regulations based thereon.

7 (Source: P.A. 85-1241.)

8 (20 ILCS 1805/47) (from Ch. 129, par. 220.47)

9 Sec. 47. Enlisted personnel who may be dishonorably
10 discharged from the Illinois National Guard or Illinois Naval
11 Militia shall be ineligible to hold any elective or appointive
12 office, position or employment, in the service of the State of
13 Illinois, any county, or any municipality thereof, for a period
14 of five years unless such disability be removed by the
15 Governor.

16 (Source: P.A. 85-1241.)

17 (20 ILCS 1805/48) (from Ch. 129, par. 220.48)

18 Sec. 48. When in active service of the State, under orders
19 of the Commander-in-Chief, officers and warrant officers of the
20 Illinois National Guard and Illinois Naval Militia shall
21 receive the same pay as provided by law for officers and
22 warrant officers of the armed forces of the United States of
23 like grade and longevity. However, no officer or warrant
24 officer shall receive less than \$75 per day for each day's

1 service performed.

2 (Source: P.A. 85-1241; 86-1170.)

3 (20 ILCS 1805/49) (from Ch. 129, par. 220.49)

4 Sec. 49. When in active service of the State, under orders
5 of the Commander-in-Chief, enlisted personnel of the Illinois
6 National Guard and Illinois Naval Militia shall receive the
7 same pay as provided by law for enlisted personnel of the armed
8 forces of the United States of like grade and longevity.
9 However, no enlisted person shall receive less than \$75 per day
10 for each day's service performed.

11 (Source: P.A. 85-1241; 86-1170.)

12 (20 ILCS 1805/52) (from Ch. 129, par. 220.52)

13 Sec. 52. Officers, warrant officers or enlisted personnel
14 of the Illinois National Guard or Illinois Naval Militia who
15 may be wounded or disabled in any way, while on duty and
16 lawfully performing the same, so as to prevent their working at
17 their profession, trade or other occupation from which they
18 gain their living, are entitled to be treated by an officer of
19 the medical or dental department detailed by The Adjutant
20 General and, as long as the Illinois National Guard or Naval
21 Militia has not been called into federal service, are entitled
22 to all privileges due them as State employees under the
23 "Workers' Compensation Act", approved July 9, 1951, as now or
24 hereafter amended, and the "Workers' Occupational Diseases

1 Act", approved July 9, 1951, as now or hereafter amended.

2 (Source: P.A. 85-1241.)

3 (20 ILCS 1805/53) (from Ch. 129, par. 220.53)

4 Sec. 53. When officers, warrant officers or enlisted
5 personnel of the Illinois National Guard or Illinois Naval
6 Militia are injured, wounded or killed while performing duty in
7 pursuance of orders from the Commander-in-Chief, said
8 personnel or their heirs or dependents, shall have a claim
9 against the State for financial help or assistance, and the
10 State Court of Claims shall act on and adjust the same as the
11 merits of each case may demand. Pending action of the Court of
12 Claims, the Commander-in-Chief is authorized to relieve
13 emergency needs upon recommendation of a board of three
14 officers, one of whom shall be an officer of the medical
15 department.

16 (Source: P.A. 85-1241.)

17 (20 ILCS 1805/62) (from Ch. 129, par. 220.62)

18 Sec. 62. No military or naval organization shall be
19 maintained by the State at any station, town, or city, unless
20 there be an available and suitable hall for drills, together
21 with necessary and adequate company assembly rooms, store and
22 locker and other rooms as may be required by the
23 Commander-in-Chief.

24 (Source: P.A. 85-1241.)

1 (20 ILCS 1805/63 new)

2 Sec. 63. Armories of the naval force shall be situated
3 immediately on or near navigable waters of the State, in a
4 position to promote the efficiency of the service. The word
5 "armory", as used in any part of this Act when applied to the
6 naval force, shall be held to include vessel, boathouse or
7 dock, used as an armory or for the purpose of instruction,
8 drill, and defense.

9 (20 ILCS 1805/65) (from Ch. 129, par. 220.65)

10 Sec. 65. Subject to such reasonable regulations as may be
11 promulgated by the Adjutant General, the use and rental of
12 armories may be permitted for any reasonable and legitimate
13 civilian activities so long as the activities do not interfere
14 with their use for military purposes. Proceeds received from
15 rentals, above the expenses incident to the use, will be placed
16 in an "Armory Rental Account" by the Adjutant General and used
17 for recruiting, athletic, and recreational activities and
18 other purposes in the interest and for the benefit of the
19 personnel of the Illinois National Guard and Illinois Naval
20 Militia. Expenditures of those proceeds must be made on a
21 modified per capita basis with due consideration given to the
22 proportion of each armory's generation of revenue, as
23 determined by the Adjutant General.

24 (Source: P.A. 92-252, eff. 8-3-01.)

1 (20 ILCS 1805/68) (from Ch. 129, par. 220.68)

2 Sec. 68. Military offenses applicable to the Illinois
3 National Guard and Illinois Naval Militia are those offenses
4 and derelictions as are made punishable by the military laws of
5 the United States and the State of Illinois and all rules and
6 regulations based thereon.

7 (Source: P.A. 85-1241.)

8 (20 ILCS 1805/69) (from Ch. 129, par. 220.69)

9 Sec. 69. The Courts-Martial for the Illinois National Guard
10 and Illinois Naval Militia shall be:

11 (a) General courts-martial.

12 (b) Special courts-martial.

13 (c) Summary courts-martial.

14 (Source: P.A. 85-1241.)

15 (20 ILCS 1805/71) (from Ch. 129, par. 220.71)

16 Sec. 71. General courts-martial shall be convened by order
17 of the Governor and such courts shall have power to:

18 (a) Impose fines not to exceed \$500.00; sentence to
19 confinement in a military guardhouse or in the county jail of
20 the county in which the immediate organization of the accused
21 is permanently located, not to exceed six months; sentence to
22 forfeiture of pay and allowances; reprimand; sentence to
23 dismissal or dishonorable discharge from the service; or to

1 reduction of non-commissioned officers to the ranks. Any two or
2 more of such punishments may be combined in the sentence
3 authorized to be imposed by such courts.

4 (b) To impose a sentence of the same kind and degree as is
5 provided by the criminal code of the State of Illinois upon
6 conviction of the following offenses committed while the
7 individual is in the active service of the State of Illinois:
8 larceny, robbery, burglary, arson, mayhem, second degree
9 murder, first degree murder, aggravated criminal sexual
10 assault, predatory criminal sexual assault of a child, criminal
11 sexual assault, assault and battery with intent to kill, or
12 wounding by shooting or stabbing with intent to commit first
13 degree murder; but should any member of the Illinois National
14 Guard or Illinois Naval Militia while in the discharge of duty
15 on active service in pursuance of orders from a superior
16 authority, take life or injure any person or persons or
17 property in such discharge of duty, the act or acts upon the
18 part of such enlisted personnel, warrant officer or
19 commissioned officer shall be deemed to be justifiable and
20 lawful and they shall not be prosecuted therefor in any court
21 or incur any civil liability by reason thereof.

22 (Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96.)

23 (20 ILCS 1805/74) (from Ch. 129, par. 220.74)

24 Sec. 74. In trials by general and special courts-martial
25 the accused shall be entitled to be represented by own employed

1 counsel or by a suitable officer of the Illinois National Guard
2 or Illinois Naval Militia, to be designated by said court, or
3 detailed by the officer convening the same, at the request of
4 the accused.

5 All proceedings of courts-martial shall be forwarded to and
6 receive approval of the officer ordering the same before
7 sentence shall go into effect, and such officer may remit,
8 mitigate or commute such sentence. No sentence of dismissal or
9 of dishonorable discharge, or the reduction to the ranks of
10 enlisted personnel, or which includes a fine of more than
11 \$100.00, or imprisonment for more than 30 ~~thirty~~ days, shall
12 take effect without the approval of the Commander-in-Chief.

13 In any trial by a general courts-martial or a special
14 courts-martial, the State's Attorney of the county where the
15 offense is alleged to have been committed, or his
16 representative, shall have the same right to be present at all
17 sessions of any such courts-martial as the judge advocate of
18 the court and to produce evidence and to examine and
19 cross-examine all witnesses.

20 (Source: P.A. 85-1241.)

21 (20 ILCS 1805/82) (from Ch. 129, par. 220.82)

22 Sec. 82. Judge advocates of general and special
23 courts-martial and summary court officers are empowered to
24 administer oaths to witnesses before such courts and to take
25 such depositions as may be required for use in military trials.

1 Such officers and all adjutants are empowered to take
2 acknowledgments and oaths to affidavits pertaining to the loss
3 or damage to property, to applications for discharge, and in
4 general to any military documents or business which would
5 otherwise require the action of a civil officer authorized by
6 law to take acknowledgments. Such oaths, affidavits and
7 acknowledgments shall have the same legal force and effect as
8 if taken by a civil officer now authorized by law to take
9 acknowledgments. Depositions of witnesses residing outside the
10 State of Illinois may be taken before any civil officer
11 authorized by law to take the same, upon reasonable notice
12 given. Such depositions may be either upon oral or written
13 interrogatories.

14 Oaths of office to any military or naval officer in the
15 service of this State may be administered by any commissioned
16 officer thereof.

17 The presiding officer, or recorder, of any military board
18 duly appointed to conduct any investigation or inquiry, or an
19 officer detailed for such purpose may likewise administer oaths
20 to any witness attending to testify in such investigation or
21 inquiry.

22 (Source: P.A. 85-1241.)

23 (20 ILCS 1805/83) (from Ch. 129, par. 220.83)

24 Sec. 83. Whenever there is a tumult, riot, mob or body of
25 persons acting together by force with attempt to commit a

1 felony, or to offer violence to persons or property, or by
2 force or violence to break or resist the laws of the State, or
3 when such tumult, riot or mob is threatened it shall be deemed
4 that a time of public disorder and danger then exists, and it
5 shall be the duty of the Governor thereupon to order such
6 military or naval force as he may deem necessary to aid the
7 civil authorities in suppressing such violence and executing
8 the law.

9 (Source: P.A. 85-1241.)

10 (20 ILCS 1805/84) (from Ch. 129, par. 220.84)

11 Sec. 84. Whenever any military or naval force is so ordered
12 out by the Commander-in-Chief, the commanding officer thereof
13 may arrest any person or persons in view without process and
14 hold them in custody until, by order of the Commander-in-Chief,
15 such person or persons are discharged from custody or delivered
16 over to the civil authorities. Such commanding officer may also
17 use such force as he may deem necessary to suppress riots,
18 disperse mobs, restore peace and execute the law.

19 (Source: P.A. 85-1241.)

20 (20 ILCS 1805/85) (from Ch. 129, par. 220.85)

21 Sec. 85. Orders from civil officers to any military or
22 naval commander shall specify only the work to be done or
23 result to be attained and shall not include the method to be
24 employed as to which the military or naval officer shall

1 exercise his discretion and be the sole judge as to what means
2 are necessary.

3 (Source: P.A. 85-1241.)

4 (20 ILCS 1805/86) (from Ch. 129, par. 220.86)

5 Sec. 86. Whenever 12 or more persons, any of them armed
6 with clubs or dangerous weapons, or 30 or more, armed or
7 unarmed are unlawfully, riotously or tumultuously assembled,
8 it is the duty of the commanding officer of such military or
9 naval force as may be present on duty, to go among the persons
10 so assembled, or as near them as safety will permit, and in the
11 name of the State command them immediately to disperse, and if
12 they do not obey, every person refusing to disperse shall be
13 deemed one of such unlawful assembly and shall be guilty of a
14 Class A misdemeanor; and each officer having notice of such
15 unlawful assembly and refusing or neglecting to do their duty
16 in relation thereto, as aforesaid, shall be guilty of a petty
17 offense.

18 When persons so unlawfully assembled neglect or refuse, on
19 command, as aforesaid, to disperse, it shall be the duty of the
20 above military authorities to forthwith suppress such assembly
21 and disperse the persons composing it in such manner as may be
22 most expedient.

23 If in the efforts made as aforesaid to suppress such
24 assembly and to arrest and secure the persons composing it who
25 neglect or refuse to disperse, though the number remaining be

1 less than 12, any such persons, or any persons, present as
2 spectators or otherwise, are killed or wounded, the military or
3 naval personnel, each and all of them, shall be held guiltless
4 of any crime and justified in law.

5 (Source: P.A. 85-1241.)

6 (20 ILCS 1805/87) (from Ch. 129, par. 220.87)

7 Sec. 87. It is unlawful for any person to assault or fire
8 upon, throw any missile at, against or upon any member or body
9 of the Illinois National Guard or Illinois Naval Militia, when
10 going to, returning from or performing any duty under the
11 provisions of this Article, and any person so offending is
12 guilty of a felony and may on conviction be imprisoned in the
13 penitentiary for not less than two nor more than five years.

14 (Source: P.A. 85-1241.)

15 (20 ILCS 1805/88) (from Ch. 129, par. 220.88)

16 Sec. 88. If any portion of the Illinois National Guard or
17 Illinois Naval Militia in the performance of any duty is
18 assailed, assaulted, attacked, or in imminent danger thereof,
19 the commanding officer of such Illinois National Guard or
20 Illinois Naval Militia may at once proceed to quell such attack
21 and disperse the attacking parties and take all other steps for
22 the safety of his command that he may deem necessary.

23 (Source: P.A. 85-1241.)

1 (20 ILCS 1805/89) (from Ch. 129, par. 220.89)

2 Sec. 89. If any member of the Illinois National Guard or
3 Illinois Naval Militia in the performance of military duty, or
4 in pursuance thereof, and while acting as a member of the
5 Illinois National Guard or Illinois Naval Militia, kills,
6 wounds, maims or injures any person, or causes, orders or
7 directs the killing, wounding, maiming or injuring of any
8 person, or the injury, destruction or confiscation of any
9 property, real or personal, the officer commanding the military
10 force of which such member is a part shall, as soon as possible
11 thereafter, convene a board to consist of not less than 3 ~~three~~
12 nor more than 5 ~~five~~ commissioned officers of the military or
13 naval force, who shall examine and inquire into the facts in
14 connection with, or in relation to the act or acts to be
15 inquired of, and take the substance of the proof or evidence of
16 the witnesses to, and participants in, such act or acts down in
17 writing, and transmit the same together with their findings and
18 recommendations from the facts adduced before said board to The
19 Adjutant General.

20 The findings of the board shall include one of the
21 following recommendations, to-wit: That the individual under
22 investigation be brought to trial before a general
23 courts-martial, or be wholly exonerated and acquitted of
24 responsibility for the acts, or be turned over to the civil
25 authorities to be dealt with as the law directs.

26 The officer commanding said military force may cause the

1 arrest of any member of the Illinois National Guard or Illinois
2 Naval Militia so killing, wounding, or injuring any person or
3 persons, or of the officer, or the non-commissioned, petty or
4 warrant officer directly responsible therefor, by reason of
5 orders given by him in the execution of his military duty, or
6 otherwise, and hold in arrest until discharged by competent
7 authority.

8 (Source: P.A. 85-1241.)

9 (20 ILCS 1805/90) (from Ch. 129, par. 220.90)

10 Sec. 90. If any member of the Illinois National Guard or
11 Illinois Naval Militia is prosecuted by civil or criminal
12 action for any act performed or committed by such member, or an
13 act caused, ordered or directed by such member to be done or
14 performed in furtherance of and while in the performance of
15 military duty, all the expense of the defense of such action or
16 actions civil or criminal, including attorney's fees,
17 witnesses' fees for the defense, defendant's court costs and
18 all costs for transcripts of records and abstracts thereof on
19 appeal by the defense, shall be paid by the State; provided,
20 that the Attorney General of the State shall be first consulted
21 in regard to, and approve of, the selection of the attorney for
22 the defense: And, provided, further, that the Attorney General
23 of the State may, if he see fit, assume the responsibility for
24 the defense of such member and conduct the same personally or
25 by any one or more of his assistants.

1 (Source: P.A. 85-1241.)

2 (20 ILCS 1805/92.1) (from Ch. 129, par. 220.92-1)

3 Sec. 92.1. All civilian employees of the Army National
4 Guard, ~~and~~ Air National Guard, and Naval Militia under the
5 jurisdiction of the Adjutant General are eligible for
6 membership in the employee retirement, disability or death
7 benefit system, and the group health insurance program
8 negotiated for and provided on their behalf by the Adjutant
9 General pursuant to Section 24.1 of this Act.

10 (Source: Laws 1965, p. 2574.)

11 (20 ILCS 1805/93) (from Ch. 129, par. 220.93)

12 Sec. 93. No part of the land or naval forces shall leave
13 the State with arms and equipment without the consent of the
14 Commander-in-Chief.

15 (Source: P.A. 85-1241.)

16 (20 ILCS 1805/93.1 new)

17 Sec. 93.1. Naval militia; inventory. Within 6 months after
18 the effective date of this amendatory Act of the 95th General
19 Assembly, any entity in the State that possesses a water craft
20 or boat that is owned by the State shall report to the
21 Commander, Illinois Naval Militia, the number and type of all
22 those water craft or boats in the possession of that entity.

1 (20 ILCS 1805/94a) (from Ch. 129, par. 220.94a)

2 Sec. 94a. (a) As used in this Section, unless the context
3 clearly requires otherwise:

4 (1) "Civil disorder" means any public disturbance
5 involving acts of violence by assemblages of 3 or more
6 persons which causes an immediate danger of or results in
7 damage or injury to any real or tangible property or
8 person.

9 (2) "Firearm" means any weapon which is designed to or
10 may readily be converted to expel any projectile by the
11 action of an explosive; or the frame or receiver of any
12 such weapon.

13 (3) "Explosive or incendiary device" means (A)
14 dynamite or any other form of high explosive, (B) any
15 explosive bomb, grenade, missile or similar device, or (C)
16 any incendiary bomb or grenade, fire bomb or similar
17 device, including any device which (i) consists of or
18 includes a breakable container including a flammable
19 liquid or compound, and a wick composed of any material
20 which, when ignited, is capable of igniting such flammable
21 liquid or compound and (ii) can be carried or thrown by one
22 individual acting alone.

23 (b) It is unlawful for any person to:

24 (1) Teach or demonstrate to any other person the use,
25 application, or making of any firearm, explosive,
26 incendiary device or technique capable of causing injury or

1 death to persons, knowing or having reason to know and
2 intending that same will be unlawfully employed for use in,
3 or in furtherance of, a civil disorder; or

4 (2) Assemble with one or more persons for the purpose
5 of training with, practicing with, or being instructed in
6 the use of any firearm, explosive, incendiary device or
7 technique capable of causing injury or death to persons,
8 intending to employ unlawfully the same for use in, or in
9 furtherance of, a civil disorder.

10 (c) Violation of subsection (b) of this Section is a Class
11 4 felony.

12 (d) Nothing contained in this Section makes unlawful any
13 activity of:

14 (1) law enforcement officials of this or any other
15 jurisdiction while engaged in the lawful performance of
16 their official duties;

17 (2) federal officials required to carry firearms while
18 engaged in the lawful performance of their official duties;

19 (3) members of the Armed Forces of the United States,
20 ~~or~~ the Illinois National Guard, or the Illinois Naval
21 Militia while engaged in the lawful performance of their
22 official duties;

23 (4) any game commission, fish commission or law
24 enforcement agency (or any agency licensed to provide
25 security services), or any hunting club, rifle club, rifle
26 range, pistol range, shooting range or other organization

1 or entity whose primary purpose is to teach the safe
2 handling or use of firearms, archery equipment or other
3 weapons or techniques employed in connection with lawful
4 sporting or other lawful activity;

5 (5) any assembly for public historical re-enactment
6 purposes by a historic military re-enactment group
7 portraying events in military history presented for the
8 purposes of public education and entertainment; provided
9 that any participants utilize historically appropriate
10 uniforms, weapons and accoutrements.

11 (Source: P.A. 86-1370.)

12 (20 ILCS 1805/96) (from Ch. 129, par. 220.96)

13 Sec. 96. Any filth, offal, or any putrid, or decaying
14 matter, material or substance of any kind, which constitutes a
15 menace to public health or will be offensive to the senses of
16 human beings, on any premises, or in any place within one half
17 mile of any Illinois National Guard or Illinois Naval Militia
18 camp grounds, rifle range, or buildings, or enclosure occupied
19 and used, or about to be occupied or used by the Illinois
20 National Guard or Illinois Naval Militia in the service of the
21 State or Federal Government, or which may be called into the
22 service of either, is declared to be a common nuisance, and the
23 department of Public Health is empowered to determine whether
24 such nuisance exists, and if found to exist, to forthwith, in
25 writing, order the person, firm, association, or private,

1 public or municipal corporation, as the case may be, to
2 immediately abate such nuisance; and upon failure to
3 immediately obey such order, the Department of Public Health
4 shall abate such common nuisance and the person, firm,
5 association, or corporation responsible for such common
6 nuisance shall be liable for the cost and expense of such
7 abatement in an action therefor at the suit of the People of
8 the State of Illinois.

9 Any person or persons, either individually or as officers
10 of any private, public or municipal corporation creating or
11 maintaining, or responsible for the creation or maintenance of
12 such common nuisance, or failing, or refusing to immediately
13 abate the same upon the written order of the Department of
14 Public Health, shall be guilty of a Class C misdemeanor.

15 (Source: P.A. 85-1241.)

16 (20 ILCS 1805/98) (from Ch. 129, par. 220.98)

17 Sec. 98. If any person molests, interrupts or insults, by
18 abusive words or behavior or obstructs any officer, ~~or~~ soldier,
19 or seaman while on duty at any parade or drill, he may be put
20 immediately under guard, and kept at the discretion of the
21 commanding officer, until the duty, parade or drill is
22 concluded, and such commanding officer may turn over such
23 person to any sheriff or to a police officer of a county, city
24 or town wherein such duty, parade or drill is held, to be dealt
25 with as the law directs.

1 (Source: P.A. 85-1241.)

2 (20 ILCS 1805/100) (from Ch. 129, par. 220.100)

3 Sec. 100. A person who, either by himself or with another,
4 wilfully deprives a member of the Illinois National Guard,
5 Illinois Naval Militia, or the reserve armed services of the
6 United States of his employment, or prevents his being employed
7 by himself or another, or obstructs or annoys a member of such
8 organization or his employer in respect of his trade, business
9 or employment because the member is such member, or dissuades
10 any person from enlistment in the National Guard or Naval
11 Militia by threat of injury to him in case he so enlists in
12 respect of his employment, trade or business, shall be guilty
13 of a petty offense. It is the duty of the State's Attorney of
14 the county wherein said information is made or offense
15 committed to prosecute the action in the name of the People of
16 the State of Illinois.

17 (Source: P.A. 85-1241.)

18 (20 ILCS 1805/101) (from Ch. 129, par. 220.101)

19 Sec. 101. Any person not a member of the army or navy of
20 the United States, or of the National Guard or Naval Militia of
21 one of the States, or of the Grand Army of the Republic or
22 other patriotic military societies, or independent military
23 organizations as authorized under Section 94 of this Article,
24 who wears any uniform or designation of rank in use by the

1 Illinois National Guard or Illinois Naval Militia, used or
2 authorized in this Act, shall be guilty of a petty offense and
3 fined not less than \$20 nor more than \$100. Such offender shall
4 be proceeded against as in the case of other misdemeanors under
5 the statute, and the person so fined shall be committed as
6 provided by law.

7 All fines collected under this Section shall be transmitted
8 by the officer collecting the same to the Treasurer of the
9 State of Illinois.

10 (Source: P.A. 85-1241.)

11 Section 40. The State Guard Act is amended by changing
12 Sections 2, 6, and 8 as follows:

13 (20 ILCS 1815/2) (from Ch. 129, par. 230)

14 Sec. 2. Whenever the Governor as Commander-in-Chief of the
15 military forces of the State, deems it necessary or advisable
16 for the purpose of executing the laws of the State, or of
17 preventing actual or threatened violation thereof, such as
18 suppressing actual or threatened insurrection, invasion,
19 tumult, riots, or mobs, or when the nation is at war and a
20 requisition or order has been made, or is likely to be made, by
21 the President of the United States calling the National Guard,
22 or parts thereof, or the Illinois Naval Militia into the
23 National service, or for any other emergency, the Governor may
24 issue a proclamation or call for volunteer companies,

1 battalions, regiments, brigades, or other units of land, ~~and~~
2 air, and naval forces to be known as the Illinois State Guard
3 which shall be formed and organized from the unorganized
4 militia of the State, consisting of all able-bodied citizens
5 between the ages of 18 and 45 years, and of other able-bodied
6 citizens between the ages of 45 and 55 years, as enlisted
7 personnel, and of commissioned officers and warrant officers,
8 when made necessary by an emergency.

9 (Source: P.A. 85-1241.)

10 (20 ILCS 1815/6) (from Ch. 129, par. 234)

11 Sec. 6. The Governor may requisition from the ~~War~~
12 Department of Defense of the United States such arms and
13 equipment as may be available for use of the Illinois State
14 Guard, and such other uniforms, arms and equipment as may
15 hereafter be authorized by the Congress of the United States to
16 be made available to the Illinois State Guard. The Governor may
17 make available for the use of the Illinois State Guard such
18 uniforms, arms and equipment as may be owned by the State or as
19 may be in possession of the State for the purpose of such use.

20 (Source: Laws 1951, p. 1999.)

21 (20 ILCS 1815/8) (from Ch. 129, par. 236)

22 Sec. 8. The uniforms, arms and other equipment of the
23 Illinois State Guard, the minimum number of meetings per
24 calendar year, for instruction, drill and training of the

1 various units thereof, the character of such instruction and
2 training, and all other matters and things necessary or
3 desirable for the complete organization, equipment,
4 discipline, efficiency, and maintenance, of the Illinois State
5 Guard, not otherwise provided for, shall be prescribed and
6 carried into effect by regulations promulgated by The Adjutant
7 General, Chief of Staff, and approved by the Governor, which
8 shall conform to any existing regulations prescribed by the
9 Secretary of Defense ~~War~~ of the United States.

10 (Source: Laws 1951, p. 1999.)

11 Section 45. The Illinois National Guardsman's Compensation
12 Act is amended by changing Sections 1, 2, 3, and 4 as follows:

13 (20 ILCS 1825/1) (from Ch. 129, par. 401)

14 Sec. 1. This Act shall be known as and may be cited as the
15 "Illinois National Guardsman's and Naval Militiaman's
16 Compensation Act".

17 (Source: P.A. 85-1241.)

18 (20 ILCS 1825/2) (from Ch. 129, par. 402)

19 Sec. 2. As used in this Act, unless the context otherwise
20 requires:

21 (a) "Illinois National Guardsman" or "guardsman" and
22 "Naval Militiaman" or "militiaman" means any person who is a
23 member of the Illinois National Guard or Naval Militia under

1 "The Military Code of Illinois", approved July 8, 1957, as
2 amended.

3 (b) "Killed in the line of duty" means losing one's life as
4 a result of injury received while on duty as an Illinois
5 national guardsman or naval militiaman, if the death occurs
6 within one year from the date the injury was received and if
7 that injury arose from violence or any other accidental cause
8 except that the benefits this Act shall not be provided in the
9 event a guardsman or militiaman is killed while on active
10 military service pursuant to an order of the President of the
11 United States. The terms excludes death resulting from the
12 willful misconduct or intoxication of the guardsman or
13 militiaman; however, the burden of proof of such willful
14 misconduct or intoxication of the guardsman or militiaman is on
15 the Attorney General.

16 (Source: P.A. 85-1241.)

17 (20 ILCS 1825/3) (from Ch. 129, par. 403)

18 Sec. 3. If a claim therefor is made within one year of the
19 date of the death of the guardsman or militiaman, compensation
20 shall be paid to the person designated by such guardsman or
21 militiaman killed while on duty. The amount of compensation
22 shall be equal to the greater of (i) \$100,000 or (ii) the
23 amount of compensation payable under Section 3 of the Line of
24 Duty Compensation Act when an individual to whom that Act
25 applies is killed in the line of duty. If no beneficiary is

1 designated or surviving at the death of the guardsman or
2 militiaman killed while on duty, the compensation shall be paid
3 as follows:

4 (a) When there is a surviving spouse, the entire sum
5 shall be paid to the spouse.

6 (b) When there is no surviving spouse, but a surviving
7 descendant of the decedent, the entire sum shall be paid to
8 the decedent's descendants per stirpes.

9 (c) When there is neither a surviving spouse nor a
10 surviving descendant, the entire sum shall be paid to the
11 parents of the decedent in equal parts, allowing to the
12 surviving parent, if one is dead, the entire sum.

13 (d) When there is no surviving spouse, descendant or
14 parent of the decedent, but there are surviving brothers or
15 sisters, or descendants of a brother or sister, who were
16 receiving their principal support from the decedent at his
17 death, the entire sum shall be paid, in equal parts, to the
18 dependent brothers or sisters or dependent descendant of a
19 brother or sister. Dependency shall be determined by the
20 Court of Claims based upon the investigation and report of
21 the Attorney General.

22 When there is no beneficiary designated or surviving at the
23 death of the guardsman or militiaman killed while on duty and
24 no surviving spouse, descendant, parent, dependent brother or
25 sister, or dependent descendant of a brother or sister, no
26 compensation shall be payable under this Act.

1 No part of such compensation may be paid to any other
2 person for any efforts in securing such compensation.

3 If compensation is payable under the Line of Duty
4 Compensation Act because of the death of a guardsman, the
5 provisions of that Act shall apply to the payment of that
6 compensation.

7 (Source: P.A. 93-1047, eff. 10-18-04; 94-844, eff. 6-8-06.)

8 (20 ILCS 1825/4) (from Ch. 129, par. 404)

9 Sec. 4. Notwithstanding Section 3, no compensation is
10 payable under this Act unless a claim therefor is filed, within
11 the time specified by that Section with the Court of Claims on
12 an application prescribed and furnished by the Attorney General
13 and setting forth:

14 (a) the name, address and rank or grade in which the
15 guardsman or militiaman was serving at the time of this death;

16 (b) the names and addresses of person or persons designated
17 by the guardsman or militiaman to receive the compensation and,
18 if more than one, the percentage or share to be paid to each
19 such person, or if there has been no such designation, the name
20 and address of the personal representative of the estate of the
21 guardsman or militiaman;

22 (c) a full, factual account of the circumstances resulting
23 in or the course of events causing the death of the guardsman
24 or militiaman; and

25 (d) such other information as the Court of Claims

1 reasonably requires.

2 When a claim is filed, the Attorney General shall make an
3 investigation for substantiation of matters set forth in such
4 an application.

5 (Source: P.A. 85-1241.)

6 Section 50. The Illinois Income Tax Act is amended by
7 changing Section 203 as follows:

8 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

9 Sec. 203. Base income defined.

10 (a) Individuals.

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

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

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

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

5 (C) An amount equal to the amount received during
6 the taxable year as a recovery or refund of real
7 property taxes paid with respect to the taxpayer's
8 principal residence under the Revenue Act of 1939 and
9 for which a deduction was previously taken under
10 subparagraph (L) of this paragraph (2) prior to July 1,
11 1991, the retrospective application date of Article 4
12 of Public Act 87-17. In the case of multi-unit or
13 multi-use structures and farm dwellings, the taxes on
14 the taxpayer's principal residence shall be that
15 portion of the total taxes for the entire property
16 which is attributable to such principal residence;

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

21 (D-5) An amount, to the extent not included in
22 adjusted gross income, equal to the amount of money
23 withdrawn by the taxpayer in the taxable year from a
24 medical care savings account and the interest earned on
25 the account in the taxable year of a withdrawal
26 pursuant to subsection (b) of Section 20 of the Medical

1 Care Savings Account Act or subsection (b) of Section
2 20 of the Medical Care Savings Account Act of 2000;

3 (D-10) For taxable years ending after December 31,
4 1997, an amount equal to any eligible remediation costs
5 that the individual deducted in computing adjusted
6 gross income and for which the individual claims a
7 credit under subsection (l) of Section 201;

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

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

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

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

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

23 This paragraph shall not apply to the following:

24 (i) an item of interest paid, accrued, or
25 incurred, directly or indirectly, to a foreign
26 person who is subject in a foreign country or

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

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

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

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

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

26 (iv) an item of interest paid, accrued, or

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

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

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

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

1 works, trade secrets, and similar types of intangible
2 assets.

3 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

1 Section 529(c)(3)(B);
2 and by deducting from the total so obtained the sum of the
3 following amounts:

4 (E) For taxable years ending before December 31,
5 2001, any amount included in such total in respect of
6 any compensation (including but not limited to any
7 compensation paid or accrued to a serviceman while a
8 prisoner of war or missing in action) paid to a
9 resident by reason of being on active duty in the Armed
10 Forces of the United States and in respect of any
11 compensation paid or accrued to a resident who as a
12 governmental employee was a prisoner of war or missing
13 in action, and in respect of any compensation paid to a
14 resident in 1971 or thereafter for annual training
15 performed pursuant to Sections 502 and 503, Title 32,
16 United States Code as a member of the Illinois National
17 Guard or the Illinois Naval Militia. For taxable years
18 ending on or after December 31, 2001, any amount
19 included in such total in respect of any compensation
20 (including but not limited to any compensation paid or
21 accrued to a serviceman while a prisoner of war or
22 missing in action) paid to a resident by reason of
23 being a member of any component of the Armed Forces of
24 the United States and in respect of any compensation
25 paid or accrued to a resident who as a governmental
26 employee was a prisoner of war or missing in action,

1 and in respect of any compensation paid to a resident
2 in 2001 or thereafter by reason of being a member of
3 the Illinois National Guard or the Illinois Naval
4 Militia. The provisions of this amendatory Act of the
5 92nd General Assembly are exempt from the provisions of
6 Section 250;

7 (F) An amount equal to all amounts included in such
8 total pursuant to the provisions of Sections 402(a),
9 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the
10 Internal Revenue Code, or included in such total as
11 distributions under the provisions of any retirement
12 or disability plan for employees of any governmental
13 agency or unit, or retirement payments to retired
14 partners, which payments are excluded in computing net
15 earnings from self employment by Section 1402 of the
16 Internal Revenue Code and regulations adopted pursuant
17 thereto;

18 (G) The valuation limitation amount;

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

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

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

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

20 (L) For taxable years ending after December 31,
21 1983, an amount equal to all social security benefits
22 and railroad retirement benefits included in such
23 total pursuant to Sections 72(r) and 86 of the Internal
24 Revenue Code;

25 (M) With the exception of any amounts subtracted
26 under subparagraph (N), an amount equal to the sum of

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

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

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

24 (P) An amount equal to the amount of the deduction
25 used to compute the federal income tax credit for
26 restoration of substantial amounts held under claim of

1 right for the taxable year pursuant to Section 1341 of
2 the Internal Revenue Code of 1986;

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

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

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

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

25 (U) For one taxable year beginning on or after
26 January 1, 1994, an amount equal to the total amount of

1 tax imposed and paid under subsections (a) and (b) of
2 Section 201 of this Act on grant amounts received by
3 the taxpayer under the Nursing Home Grant Assistance
4 Act during the taxpayer's taxable years 1992 and 1993;

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

1 long-term care insurance premiums paid by the taxpayer
2 times a number that represents the fractional
3 percentage of eligible medical expenses under Section
4 213 of the Internal Revenue Code of 1986 not actually
5 deducted on the taxpayer's federal income tax return;

6 (W) For taxable years beginning on or after January
7 1, 1998, all amounts included in the taxpayer's federal
8 gross income in the taxable year from amounts converted
9 from a regular IRA to a Roth IRA. This paragraph is
10 exempt from the provisions of Section 250;

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

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

18 (Y) For taxable years beginning on or after January
19 1, 2002 and ending on or before December 31, 2004,
20 moneys contributed in the taxable year to a College
21 Savings Pool account under Section 16.5 of the State
22 Treasurer Act, except that amounts excluded from gross
23 income under Section 529(c)(3)(C)(i) of the Internal
24 Revenue Code shall not be considered moneys
25 contributed under this subparagraph (Y). For taxable
26 years beginning on or after January 1, 2005, a maximum

1 of \$10,000 contributed in the taxable year to (i) a
2 College Savings Pool account under Section 16.5 of the
3 State Treasurer Act or (ii) the Illinois Prepaid
4 Tuition Trust Fund, except that amounts excluded from
5 gross income under Section 529(c)(3)(C)(i) of the
6 Internal Revenue Code shall not be considered moneys
7 contributed under this subparagraph (Y). This
8 subparagraph (Y) is exempt from the provisions of
9 Section 250;

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

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

23 (2) for taxable years ending on or before
24 December 31, 2005, "x" equals "y" multiplied by 30
25 and then divided by 70 (or "y" multiplied by
26 0.429); and

1 (3) for taxable years ending after December
2 31, 2005:

3 (i) for property on which a bonus
4 depreciation deduction of 30% of the adjusted
5 basis was taken, "x" equals "y" multiplied by
6 30 and then divided by 70 (or "y" multiplied by
7 0.429); and

8 (ii) for property on which a bonus
9 depreciation deduction of 50% of the adjusted
10 basis was taken, "x" equals "y" multiplied by
11 1.0.

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

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

25 If the taxpayer continues to own property through
26 the last day of the last tax year for which the

1 taxpayer may claim a depreciation deduction for
2 federal income tax purposes and for which the taxpayer
3 was required in any taxable year to make an addition
4 modification under subparagraph (D-15), then an amount
5 equal to that addition modification.

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

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

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

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

1 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
2 203(d)(2)(D-8), but not to exceed the amount of that
3 addition modification;

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

16 (EE) An amount equal to the income from intangible
17 property taken into account for the taxable year (net
18 of the 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-18) for
26 intangible expenses and costs paid, accrued, or

1 incurred, directly or indirectly, to the same foreign
2 person.

3 (b) Corporations.

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

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

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

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

18 (C) In the case of a regulated investment company,
19 an amount equal to the excess of (i) the net long-term
20 capital gain for the taxable year, over (ii) the amount
21 of the capital gain dividends designated as such in
22 accordance with Section 852(b)(3)(C) of the Internal
23 Revenue Code and any amount designated under Section
24 852(b)(3)(D) of the Internal Revenue Code,
25 attributable to the taxable year (this amendatory Act

1 of 1995 (Public Act 89-89) is declarative of existing
2 law and is not a new enactment);

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

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

17 (i) 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 be reduced by the amount of
21 addition modification under this subparagraph (E)
22 which related to that net operating loss and which
23 was taken into account in calculating the base
24 income of an earlier taxable year, and

25 (ii) the addition modification relating to the
26 net operating loss carried back or forward to the

1 taxable year from any taxable year ending prior to
2 December 31, 1986 shall not exceed the amount of
3 such carryback or carryforward;

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

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

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

21 (E-11) If the taxpayer sells, transfers, abandons,
22 or otherwise disposes of property for which the
23 taxpayer was required in any taxable year to make an
24 addition modification under subparagraph (E-10), then
25 an amount equal to the aggregate amount of the
26 deductions taken in all taxable years under

1 subparagraph (T) with respect to that property.

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

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

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

1 through 964 of the Internal Revenue Code and amounts
2 included in gross income under Section 78 of the
3 Internal Revenue Code) with respect to the stock of the
4 same person to whom the interest was paid, accrued, or
5 incurred.

6 This paragraph shall not apply to the following:

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

13 (ii) an item of interest paid, accrued, or
14 incurred, directly or indirectly, to a foreign
15 person if the taxpayer can establish, based on a
16 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 interest to a person that is not a related
21 member, and

22 (b) the transaction giving rise to the
23 interest expense between the taxpayer and the
24 foreign person did not have as a principal
25 purpose the avoidance of Illinois income tax,
26 and is paid pursuant to a contract or agreement

1 that reflects an arm's-length interest rate
2 and terms; or

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

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

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

26 (E-13) For taxable years ending on or after

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

1 intangible expense or cost to a person that is
2 not a related member, and

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

10 (iii) any item of intangible expense or cost
11 paid, accrued, or incurred, directly or
12 indirectly, from a transaction with a foreign
13 person if the taxpayer establishes by clear and
14 convincing evidence, that the adjustments are
15 unreasonable; or if the taxpayer and the Director
16 agree in writing to the application or use of an
17 alternative method of apportionment under Section
18 304(f);

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

1 under Section 404 of this Act;
2 and by deducting from the total so obtained the sum of the
3 following amounts:

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

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

9 (H) In the case of a regulated investment company,
10 an amount equal to the amount of exempt interest
11 dividends as defined in subsection (b) (5) of Section
12 852 of the Internal Revenue Code, paid to shareholders
13 for the taxable year;

14 (I) With the exception of any amounts subtracted
15 under subparagraph (J), an amount equal to the sum of
16 all amounts disallowed as deductions by (i) Sections
17 171(a) (2), and 265(a) (2) and amounts disallowed as
18 interest expense by Section 291(a) (3) of the Internal
19 Revenue Code, as now or hereafter amended, and all
20 amounts of expenses allocable to interest and
21 disallowed as deductions by Section 265(a) (1) of the
22 Internal Revenue Code, as now or hereafter amended; and
23 (ii) for taxable years ending on or after August 13,
24 1999, Sections 171(a) (2), 265, 280C, 291(a) (3), and
25 832(b) (5) (B) (i) of the Internal Revenue Code; the
26 provisions of this subparagraph are exempt from the

1 provisions of Section 250;

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

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

21 (L) An amount equal to those dividends included in
22 such total that were paid by a corporation that
23 conducts business operations in a federally designated
24 Foreign Trade Zone or Sub-Zone and that is designated a
25 High Impact Business located in Illinois; provided
26 that dividends eligible for the deduction provided in

1 subparagraph (K) of paragraph 2 of this subsection
2 shall not be eligible for the deduction provided under
3 this subparagraph (L);

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

1 Section 250;

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

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

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

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

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

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

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

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

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

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

25 (1) "y" equals the amount of the depreciation
26 deduction taken for the taxable year on the

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

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

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

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

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

21 The aggregate amount deducted under this
22 subparagraph in all taxable years for any one piece of
23 property may not exceed the amount of the bonus
24 depreciation deduction taken on that property on the
25 taxpayer's federal income tax return under subsection
26 (k) of Section 168 of the Internal Revenue Code. This

1 subparagraph (T) is exempt from the provisions of
2 Section 250;

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

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

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

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

20 (V) The amount of: (i) any interest income (net of
21 the deductions allocable thereto) taken into account
22 for the taxable year with respect to a transaction with
23 a taxpayer that is required to make an addition
24 modification with respect to such transaction under
25 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
26 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed

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

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

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

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

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

13 (c) Trusts and estates.

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

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

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

25 (B) In the case of (i) an estate, \$600; (ii) a

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

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

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

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

23 (i) the addition modification relating to the
24 net operating loss carried back or forward to the
25 taxable year from any taxable year ending prior to
26 December 31, 1986 shall be reduced by the amount of

1 addition modification under this subparagraph (E)
2 which related to that net operating loss and which
3 was taken into account in calculating the base
4 income of an earlier taxable year, and

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

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

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

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

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

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

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

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

25 The taxpayer is required to make the addition
26 modification under this subparagraph only once with

1 respect to any one piece of property;

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

22 This paragraph shall not apply to the following:

23 (i) an item of interest paid, accrued, or
24 incurred, directly or indirectly, to a foreign
25 person who is subject in a foreign country or
26 state, other than a state which requires mandatory

1 unitary reporting, to a tax on or measured by net
2 income with respect to such interest; or

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

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

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

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

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

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

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

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

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

1 trade secrets, and similar types of intangible assets.

2 This paragraph shall not apply to the following:

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

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

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

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

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

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

5 (I) The valuation limitation amount;

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

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

20 (L) With the exception of any amounts subtracted
21 under subparagraph (K), an amount equal to the sum of
22 all amounts disallowed as deductions by (i) Sections
23 171(a) (2) and 265(a) (2) of the Internal Revenue Code,
24 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

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

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

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

20 (O) An amount equal to those dividends included in
21 such total that were paid by a corporation that
22 conducts business operations in a federally designated
23 Foreign Trade Zone or Sub-Zone and that is designated a
24 High Impact Business located in Illinois; provided
25 that dividends eligible for the deduction provided in
26 subparagraph (M) of paragraph (2) of this subsection

1 shall not be eligible for the deduction provided under
2 this subparagraph (O);

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

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

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

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

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

1 the bonus depreciation deduction;

2 (2) for taxable years ending on or before
3 December 31, 2005, "x" equals "y" multiplied by 30
4 and then divided by 70 (or "y" multiplied by
5 0.429); and

6 (3) for taxable years ending after December
7 31, 2005:

8 (i) for property on which a bonus
9 depreciation deduction of 30% of the adjusted
10 basis was taken, "x" equals "y" multiplied by
11 30 and then divided by 70 (or "y" multiplied by
12 0.429); and

13 (ii) for property on which a bonus
14 depreciation deduction of 50% of the adjusted
15 basis was taken, "x" equals "y" multiplied by
16 1.0.

17 The aggregate amount deducted under this
18 subparagraph in all taxable years for any one piece of
19 property may not exceed the amount of the bonus
20 depreciation deduction 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. This
23 subparagraph (R) is exempt from the provisions of
24 Section 250;

25 (S) If the taxpayer sells, transfers, abandons, or
26 otherwise disposes of property for which the taxpayer

1 was required in any taxable year to make an addition
2 modification under subparagraph (G-10), then an amount
3 equal to that addition modification.

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

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

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

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

1 is required to make an addition modification with
2 respect to such transaction under Section
3 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
4 203(d)(2)(D-8), but not to exceed the amount of such
5 addition modification;

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

18 (V) An amount equal to the income from intangible
19 property taken into account for the taxable year (net
20 of the deductions allocable thereto) with respect to
21 transactions with a foreign person who would be a
22 member of the taxpayer's unitary business group but for
23 the fact that the foreign person's business activity
24 outside the United States is 80% or more of that
25 person's total business activity, but not to exceed the
26 addition modification required to be made for the same

1 taxable year under Section 203(c)(2)(G-13) for
2 intangible expenses and costs paid, accrued, or
3 incurred, directly or indirectly, to the same foreign
4 person.

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

12 (d) Partnerships.

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

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

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

23 (B) An amount equal to the amount of tax imposed by
24 this Act to the extent deducted from gross income for
25 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 taken
10 on the taxpayer's federal income tax return for the
11 taxable year under subsection (k) of Section 168 of the
12 Internal Revenue Code;

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

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

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

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

23 This paragraph shall not apply to the following:

24 (i) an item of interest paid, accrued, or
25 incurred, directly or indirectly, to a foreign
26 person who is subject in a foreign country or

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

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

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

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

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

26 (iv) an item of interest paid, accrued, or

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

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

17 (D-8) For taxable years ending on or after December
18 31, 2004, an amount equal to the amount of intangible
19 expenses and costs otherwise allowed as a deduction in
20 computing base income, and that were paid, accrued, or
21 incurred, directly or indirectly, to a foreign person
22 who would be a member of the same unitary business
23 group but for the fact that the foreign person's
24 business activity outside the United States is 80% or
25 more of that person's total business activity. The
26 addition modification required by this subparagraph

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

1 works, trade secrets, and similar types of intangible
2 assets;

3 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

21 (E) The valuation limitation amount;

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

25 (G) An amount equal to all amounts included in
26 taxable income as modified by subparagraphs (A), (B),

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

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

15 (I) An amount equal to all amounts of income
16 distributable to an entity subject to the Personal
17 Property Tax Replacement Income Tax imposed by
18 subsections (c) and (d) of Section 201 of this Act
19 including amounts distributable to organizations
20 exempt from federal income tax by reason of Section
21 501(a) of the Internal Revenue Code;

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

1 expenses allocable to interest and disallowed as
2 deductions by Section 265(1) of the Internal Revenue
3 Code, as now or hereafter amended; and (ii) for taxable
4 years ending on or after August 13, 1999, Sections
5 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the
6 Internal Revenue Code; the provisions of this
7 subparagraph are exempt from the provisions of Section
8 250;

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

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

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

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

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

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

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

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

1 0.429); and

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

4 (i) for property on which a bonus
5 depreciation deduction of 30% of the adjusted
6 basis was taken, "x" equals "y" multiplied by
7 30 and then divided by 70 (or "y" multiplied by
8 0.429); and

9 (ii) for property on which a bonus
10 depreciation deduction of 50% of the adjusted
11 basis was taken, "x" equals "y" multiplied by
12 1.0.

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

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

26 If the taxpayer continues to own property through

1 the last day of the last tax year for which the
2 taxpayer may claim a depreciation deduction for
3 federal income tax purposes and for which the taxpayer
4 was required in any taxable year to make an addition
5 modification under subparagraph (D-5), then an amount
6 equal to that addition 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 This subparagraph (P) is exempt from the
11 provisions of Section 250;

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

1 addition modification;

2 (R) An amount equal to the interest income taken
3 into account for the taxable year (net of the
4 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(d)(2)(D-7) for interest
12 paid, accrued, or incurred, directly or indirectly, to
13 the same foreign person; and

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

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

2 (1) In general. Subject to the provisions of paragraph
3 (2) and subsection (b) (3), for purposes of this Section
4 and Section 803(e), a taxpayer's gross income, adjusted
5 gross income, or taxable income for the taxable year shall
6 mean the amount of gross income, adjusted gross income or
7 taxable income properly reportable for federal income tax
8 purposes for the taxable year under the provisions of the
9 Internal Revenue Code. Taxable income may be less than
10 zero. However, for taxable years ending on or after
11 December 31, 1986, net operating loss carryforwards from
12 taxable years ending prior to December 31, 1986, may not
13 exceed the sum of federal taxable income for the taxable
14 year before net operating loss deduction, plus the excess
15 of addition modifications over subtraction modifications
16 for the taxable year. For taxable years ending prior to
17 December 31, 1986, taxable income may never be an amount in
18 excess of the net operating loss for the taxable year as
19 defined in subsections (c) and (d) of Section 172 of the
20 Internal Revenue Code, provided that when taxable income of
21 a corporation (other than a Subchapter S corporation),
22 trust, or estate is less than zero and addition
23 modifications, other than those provided by subparagraph
24 (E) of paragraph (2) of subsection (b) for corporations or
25 subparagraph (E) of paragraph (2) of subsection (c) for

1 trusts and estates, exceed subtraction modifications, an
2 addition modification must be made under those
3 subparagraphs for any other taxable year to which the
4 taxable income less than zero (net operating loss) is
5 applied under Section 172 of the Internal Revenue Code or
6 under subparagraph (E) of paragraph (2) of this subsection
7 (e) applied in conjunction with Section 172 of the Internal
8 Revenue Code.

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

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

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

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

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

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

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

22 (G) Subchapter S corporations. In the case of: (i)
23 a Subchapter S corporation for which there is in effect
24 an election for the taxable year under Section 1362 of
25 the Internal Revenue Code, the taxable income of such
26 corporation determined in accordance with Section

1 1363(b) of the Internal Revenue Code, except that
2 taxable income shall take into account those items
3 which are required by Section 1363(b)(1) of the
4 Internal Revenue Code to be separately stated; and (ii)
5 a Subchapter S corporation for which there is in effect
6 a federal election to opt out of the provisions of the
7 Subchapter S Revision Act of 1982 and have applied
8 instead the prior federal Subchapter S rules as in
9 effect on July 1, 1982, the taxable income of such
10 corporation determined in accordance with the federal
11 Subchapter S rules as in effect on July 1, 1982; and

12 (H) Partnerships. In the case of a partnership,
13 taxable income determined in accordance with Section
14 703 of the Internal Revenue Code, except that taxable
15 income shall take into account those items which are
16 required by Section 703(a)(1) to be separately stated
17 but which would be taken into account by an individual
18 in calculating his taxable income.

19 (3) Recapture of business expenses on disposition of
20 asset or business. Notwithstanding any other law to the
21 contrary, if in prior years income from an asset or
22 business has been classified as business income and in a
23 later year is demonstrated to be non-business income, then
24 all expenses, without limitation, deducted in such later
25 year and in the 2 immediately preceding taxable years
26 related to that asset or business that generated the

1 non-business income shall be added back and recaptured as
2 business income in the year of the disposition of the asset
3 or business. Such amount shall be apportioned to Illinois
4 using the greater of the apportionment fraction computed
5 for the business under Section 304 of this Act for the
6 taxable year or the average of the apportionment fractions
7 computed for the business under Section 304 of this Act for
8 the taxable year and for the 2 immediately preceding
9 taxable years.

10 (f) Valuation limitation amount.

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

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

19 (B) The lesser of (i) the sum of the pre-August 1,
20 1969 appreciation amounts (to the extent consisting of
21 capital gain) for all property in respect of which such
22 gain was reported for federal income tax purposes for
23 the taxable year, or (ii) the net capital gain for the
24 taxable year, reduced in either case by any amount of
25 such gain included in the amount determined under
26 subsection (a) (2) (F) or (c) (2) (H).

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

2 (A) If the fair market value of property referred
3 to in paragraph (1) was readily ascertainable on August
4 1, 1969, the pre-August 1, 1969 appreciation amount for
5 such property is the lesser of (i) the excess of such
6 fair market value over the taxpayer's basis (for
7 determining gain) for such property on that date
8 (determined under the Internal Revenue Code as in
9 effect on that date), or (ii) the total gain realized
10 and reportable for federal income tax purposes in
11 respect of the sale, exchange or other disposition of
12 such property.

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

24 (C) The Department shall prescribe such
25 regulations as may be necessary to carry out the
26 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. 93-812, eff. 7-26-04; 93-840, eff. 7-30-04;
14 94-776, eff. 5-19-06; 94-789, eff. 5-19-06; 94-1021, eff.
15 7-12-06; 94-1074, eff. 12-26-06; revised 1-2-07.)

16 Section 55. The Revised Cities and Villages Act of 1941 is
17 amended by changing Section 21-14 as follows:

18 (65 ILCS 20/21-14) (from Ch. 24, par. 21-14)

19 Sec. 21-14. Member residency before election; member not to
20 hold other office.

21 (a) No member may be elected or appointed to the city
22 council after the effective date of this amendatory Act of the

1 93rd General Assembly unless he or she has resided in the ward
2 he or she seeks to represent at least one year next preceding
3 the date of the election or appointment. In the election
4 following redistricting, a candidate for alderman may be
5 elected from any ward containing a part of the ward in which he
6 or she resided for at least one year next preceding the
7 election that follows the redistricting, and, if elected, that
8 person may be reelected from the new ward he or she represents
9 if he or she resides in that ward for at least one year next
10 preceding the reelection.

11 (b) No member of the city council shall at the same time
12 hold any other civil service office under the federal, state or
13 city government, except if such member is granted a leave of
14 absence from such civil service office, or except in the
15 National Guard or the Illinois Naval Militia, or as a notary
16 public, and except such honorary offices as go by appointment
17 without compensation.

18 (Source: P.A. 93-847, eff. 7-30-04.)

19 Section 60. The Metropolitan Transit Authority Act is
20 amended by changing Section 19 as follows:

21 (70 ILCS 3605/19) (from Ch. 111 2/3, par. 319)

22 Sec. 19. The governing and administrative body of the
23 Authority shall be a board consisting of seven members, to be
24 known as Chicago Transit Board. Members of the Board shall be

1 residents of the metropolitan area and persons of recognized
2 business ability. No member of the Board of the Authority shall
3 hold any other office or employment under the Federal, State or
4 any County or any municipal government except an honorary
5 office without compensation or an office in the National Guard
6 or Illinois Naval Militia. No employee of the Authority shall
7 hold any other office or employment under the Federal, State,
8 or any County or any municipal government except an office with
9 compensation not exceeding \$5,000 annually or a position in the
10 National Guard, Illinois Naval Militia, or the United States
11 military reserves. Provided, however, that the Chairman may be
12 a member of the Board of the Regional Transportation Authority.
13 No member of the Board or employee of the Authority shall have
14 any private financial interest, profit or benefit in any
15 contract, work or business of the Authority nor in the sale or
16 lease of any property to or from the Authority. The salary of
17 each member of the initial Board shall be \$15,000.00 per annum,
18 and such salary shall not be increased or diminished during his
19 or her term of office. The salaries of successor members of the
20 Board shall be fixed by the Board and shall not be increased or
21 diminished during their respective terms of office. No Board
22 member shall be allowed any fees, perquisites or emoluments,
23 reward or compensation for his or her services as a member or
24 officer of the Authority aside from his or her salary or
25 pension, but he or she shall be reimbursed for actual expenses
26 incurred by him or her in the performance of his or her duties.

1 (Source: P.A. 84-939.)

2 Section 65. The School Code is amended by changing Sections
3 30-14.2 and 34-4 as follows:

4 (105 ILCS 5/30-14.2) (from Ch. 122, par. 30-14.2)
5 Sec. 30-14.2. MIA/POW scholarships.

6 (a) Any spouse, natural child, legally adopted child, or
7 any step-child of an eligible veteran or serviceperson who
8 possesses all necessary entrance requirements shall, upon
9 application and proper proof, be awarded a MIA/POW Scholarship
10 consisting of the equivalent of 4 calendar years of full-time
11 enrollment including summer terms, to the state supported
12 Illinois institution of higher learning of his choice, subject
13 to the restrictions listed below.

14 "Eligible veteran or serviceperson" means any veteran or
15 serviceperson, including an Illinois National Guard or
16 Illinois Naval Militia member who is on active duty or is
17 active on a training assignment, who has been declared by the
18 U. S. Department of Defense or the U.S. Department of Veterans'
19 Affairs to be a prisoner of war, be missing in action, have
20 died as the result of a service-connected disability or be
21 permanently disabled from service-connected causes with 100%
22 disability and who at the time of entering service was an
23 Illinois resident or was an Illinois resident within 6 months
24 of entering such service.

1 Full-time enrollment means 12 or more semester hours of
2 courses per semester, or 12 or more quarter hours of courses
3 per quarter, or the equivalent thereof per term. Scholarships
4 utilized by dependents enrolled in less than full-time study
5 shall be computed in the proportion which the number of hours
6 so carried bears to full-time enrollment.

7 Scholarships awarded under this Section may be used by a
8 spouse or child without regard to his or her age. The holder of
9 a Scholarship awarded under this Section shall be subject to
10 all examinations and academic standards, including the
11 maintenance of minimum grade levels, that are applicable
12 generally to other enrolled students at the Illinois
13 institution of higher learning where the Scholarship is being
14 used. If the surviving spouse remarries or if there is a
15 divorce between the veteran or serviceperson and his or her
16 spouse while the dependent is pursuing his or her course of
17 study, Scholarship benefits will be terminated at the end of
18 the term for which he or she is presently enrolled. Such
19 dependents shall also be entitled, upon proper proof and
20 application, to enroll in any extension course offered by a
21 State supported Illinois institution of higher learning
22 without payment of tuition and approved fees.

23 The holder of a MIA/POW Scholarship authorized under this
24 Section shall not be required to pay any matriculation or
25 application fees, tuition, activities fees, graduation fees or
26 other fees, except multipurpose building fees or similar fees

1 for supplies and materials.

2 Any dependent who has been or shall be awarded a MIA/POW
3 Scholarship shall be reimbursed by the appropriate institution
4 of higher learning for any fees which he or she has paid and
5 for which exemption is granted under this Section if
6 application for reimbursement is made within 2 months following
7 the end of the school term for which the fees were paid.

8 (b) In lieu of the benefit provided in subsection (a), any
9 spouse, natural child, legally adopted child, or step-child of
10 an eligible veteran or serviceperson, which spouse or child has
11 a physical, mental or developmental disability, shall be
12 entitled to receive, upon application and proper proof, a
13 benefit to be used for the purpose of defraying the cost of the
14 attendance or treatment of such spouse or child at one or more
15 appropriate therapeutic, rehabilitative or educational
16 facilities. The application and proof may be made by the parent
17 or legal guardian of the spouse or child on his or her behalf.

18 The total benefit provided to any beneficiary under this
19 subsection shall not exceed the cost equivalent of 4 calendar
20 years of full-time enrollment, including summer terms, at the
21 University of Illinois. Whenever practicable in the opinion of
22 the Department of Veterans' Affairs, payment of benefits under
23 this subsection shall be made directly to the facility, the
24 cost of attendance or treatment at which is being defrayed, as
25 such costs accrue.

26 (c) The benefits of this Section shall be administered by

1 and paid for out of funds made available to the Illinois
2 Department of Veterans' Affairs. The amounts that become due to
3 any state supported Illinois institution of higher learning
4 shall be payable by the Comptroller to such institution on
5 vouchers approved by the Illinois Department of Veterans'
6 Affairs. The amounts that become due under subsection (b) of
7 this Section shall be payable by warrant upon vouchers issued
8 by the Illinois Department of Veterans' Affairs and approved by
9 the Comptroller. The Illinois Department of Veterans' Affairs
10 shall determine the eligibility of the persons who make
11 application for the benefits provided for in this Section.

12 (Source: P.A. 93-825, eff. 7-28-04.)

13 (105 ILCS 5/34-4) (from Ch. 122, par. 34-4)

14 Sec. 34-4. Eligibility. To be eligible for appointment to
15 the board, a person shall be a citizen of the United States,
16 shall be a registered voter as provided in the Election Code,
17 shall have been a resident of the city for at least 3 years
18 immediately preceding his or her appointment, and shall not be
19 a child sex offender as defined in Section 11-9.3 of the
20 Criminal Code of 1961. Permanent removal from the city by any
21 member of the board during his term of office constitutes a
22 resignation therefrom and creates a vacancy in the board.
23 Except for the President of the Chicago School Reform Board of
24 Trustees who may be paid compensation for his or her services
25 as chief executive officer as determined by the Mayor as

1 provided in subsection (a) of Section 34-3, board members shall
2 serve without any compensation; provided, that board members
3 shall be reimbursed for expenses incurred while in the
4 performance of their duties upon submission of proper receipts
5 or upon submission of a signed voucher in the case of an
6 expense allowance evidencing the amount of such reimbursement
7 or allowance to the president of the board for verification and
8 approval. The board of education may continue to provide health
9 care insurance coverage, employer pension contributions,
10 employee pension contributions, and life insurance premium
11 payments for an employee required to resign from an
12 administrative, teaching, or career service position in order
13 to qualify as a member of the board of education. They shall
14 not hold other public office under the Federal, State or any
15 local government other than that of Director of the Regional
16 Transportation Authority, member of the economic development
17 commission of a city having a population exceeding 500,000,
18 notary public or member of the National Guard or Illinois Naval
19 Militia, and by accepting any such office while members of the
20 board, or by not resigning any such office held at the time of
21 being appointed to the board within 30 days after such
22 appointment, shall be deemed to have vacated their membership
23 in the board.

24 (Source: P.A. 93-309, eff. 1-1-04.)

25 Section 70. The Emergency Medical Services (EMS) Systems

1 Act is amended by changing Section 3.50 as follows:

2 (210 ILCS 50/3.50)

3 Sec. 3.50. Emergency Medical Technician (EMT) Licensure.

4 (a) "Emergency Medical Technician-Basic" or "EMT-B" means
5 a person who has successfully completed a course of instruction
6 in basic life support as prescribed by the Department, is
7 currently licensed by the Department in accordance with
8 standards prescribed by this Act and rules adopted by the
9 Department pursuant to this Act, and practices within an EMS
10 System.

11 (b) "Emergency Medical Technician-Intermediate" or "EMT-I"
12 means a person who has successfully completed a course of
13 instruction in intermediate life support as prescribed by the
14 Department, is currently licensed by the Department in
15 accordance with standards prescribed by this Act and rules
16 adopted by the Department pursuant to this Act, and practices
17 within an Intermediate or Advanced Life Support EMS System.

18 (c) "Emergency Medical Technician-Paramedic" or "EMT-P"
19 means a person who has successfully completed a course of
20 instruction in advanced life support care as prescribed by the
21 Department, is licensed by the Department in accordance with
22 standards prescribed by this Act and rules adopted by the
23 Department pursuant to this Act, and practices within an
24 Advanced Life Support EMS System.

25 (d) The Department shall have the authority and

1 responsibility to:

2 (1) Prescribe education and training requirements,
3 which includes training in the use of epinephrine, for all
4 levels of EMT, based on the respective national curricula
5 of the United States Department of Transportation and any
6 modifications to such curricula specified by the
7 Department through rules adopted pursuant to this Act;

8 (2) Prescribe licensure testing requirements for all
9 levels of EMT, which shall include a requirement that all
10 phases of instruction, training, and field experience be
11 completed before taking the EMT licensure examination.
12 Candidates may elect to take the National Registry of
13 Emergency Medical Technicians examination in lieu of the
14 Department's examination, but are responsible for making
15 their own arrangements for taking the National Registry
16 examination;

17 (3) License individuals as an EMT-B, EMT-I, or EMT-P
18 who have met the Department's education, training and
19 testing requirements;

20 (4) Prescribe annual continuing education and
21 relicensure requirements for all levels of EMT;

22 (5) Relicense individuals as an EMT-B, EMT-I, or EMT-P
23 every 4 years, based on their compliance with continuing
24 education and relicensure requirements;

25 (6) Grant inactive status to any EMT who qualifies,
26 based on standards and procedures established by the

1 Department in rules adopted pursuant to this Act;

2 (7) Charge each candidate for EMT a fee to be submitted
3 with an application for a licensure examination;

4 (8) Suspend, revoke, or refuse to renew the license of
5 an EMT, after an opportunity for a hearing, when findings
6 show one or more of the following:

7 (A) The EMT has not met continuing education or
8 relicensure requirements as prescribed by the
9 Department;

10 (B) The EMT has failed to maintain proficiency in
11 the level of skills for which he or she is licensed;

12 (C) The EMT, during the provision of medical
13 services, engaged in dishonorable, unethical or
14 unprofessional conduct of a character likely to
15 deceive, defraud or harm the public;

16 (D) The EMT has failed to maintain or has violated
17 standards of performance and conduct as prescribed by
18 the Department in rules adopted pursuant to this Act or
19 his or her EMS System's Program Plan;

20 (E) The EMT is physically impaired to the extent
21 that he or she cannot physically perform the skills and
22 functions for which he or she is licensed, as verified
23 by a physician, unless the person is on inactive status
24 pursuant to Department regulations;

25 (F) The EMT is mentally impaired to the extent that
26 he or she cannot exercise the appropriate judgment,

1 skill and safety for performing the functions for which
2 he or she is licensed, as verified by a physician,
3 unless the person is on inactive status pursuant to
4 Department regulations; or

5 (G) The EMT has violated this Act or any rule
6 adopted by the Department pursuant to this Act.

7 The education requirements prescribed by the Department
8 under this subsection must allow for the suspension of those
9 requirements in the case of a member of the armed services or
10 reserve forces of the United States or a member of the Illinois
11 National Guard or Illinois Naval Militia who is on active duty
12 pursuant to an executive order of the President of the United
13 States, an act of the Congress of the United States, or an
14 order of the Governor at the time that the member would
15 otherwise be required to fulfill a particular education
16 requirement. Such a person must fulfill the education
17 requirement within 6 months after his or her release from
18 active duty.

19 (e) In the event that any rule of the Department or an EMS
20 Medical Director that requires testing for drug use as a
21 condition for EMT licensure conflicts with or duplicates a
22 provision of a collective bargaining agreement that requires
23 testing for drug use, that rule shall not apply to any person
24 covered by the collective bargaining agreement.

25 (Source: P.A. 94-504, eff. 8-8-05.)

1 Section 75. The Illinois Insurance Code is amended by
2 changing Section 236 as follows:

3 (215 ILCS 5/236) (from Ch. 73, par. 848)

4 Sec. 236. Discrimination prohibited.

5 (a) No life company doing business in this State shall make
6 or permit any distinction or discrimination in favor of
7 individuals among insured persons of the same class and equal
8 expectation of life in the issuance of its policies, in the
9 amount of payment of premiums or rates charged for policies of
10 insurance, in the amount of any dividends or other benefits
11 payable thereon, or in any other of the terms and conditions of
12 the contracts it makes.

13 (b) No life company shall make or permit any distinction or
14 discrimination against individuals with handicaps or
15 disabilities in the amount of payment of premiums or rates
16 charged for policies of life insurance, in the amount of any
17 dividends or death benefits payable thereon, or in any other
18 terms and conditions of the contract it makes unless the rate
19 differential is based on sound actuarial principles and a
20 reasonable system of classification and is related to actual or
21 reasonably anticipated experience directly associated with the
22 handicap or disability.

23 (c) No life company shall refuse to insure, or refuse to
24 continue to insure, or limit the amount or extent or kind of
25 coverage available to an individual, or charge an individual a

1 different rate for the same coverage solely because of
2 blindness or partial blindness. With respect to all other
3 conditions, including the underlying cause of the blindness or
4 partial blindness, persons who are blind or partially blind
5 shall be subject to the same standards of sound actuarial
6 principles or actual or reasonably anticipated experience as
7 are sighted persons. Refusal to insure includes denial by an
8 insurer of disability insurance coverage on the grounds that
9 the policy defines "disability" as being presumed in the event
10 that the insured loses his or her eyesight. However, an insurer
11 may exclude from coverage disabilities consisting solely of
12 blindness or partial blindness when such condition existed at
13 the time the policy was issued.

14 (d) No life company shall refuse to insure or to continue
15 to insure an individual solely because of the individual's
16 status as a member of the United States Air Force, Army, Coast
17 Guard, Marines, or Navy or solely because of the individual's
18 status as a member of the National Guard, Illinois Naval
19 Militia, or Armed Forces Reserve.

20 (e) No life company may refuse to insure, refuse to
21 continue to insure, limit the amount or extent or kind of
22 coverage available to an individual, or charge an individual a
23 different rate for the same coverage solely for reasons
24 associated with an applicant's or insured's past lawful travel
25 experiences.

26 (Source: P.A. 93-850, eff. 7-30-04.)

1 Section 80. The Firearm Owners Identification Card Act is
2 amended by changing Section 2 as follows:

3 (430 ILCS 65/2) (from Ch. 38, par. 83-2)

4 Sec. 2. Firearm Owner's Identification Card required;
5 exceptions.

6 (a) (1) No person may acquire or possess any firearm, stun
7 gun, or taser within this State without having in his or
8 her possession a Firearm Owner's Identification Card
9 previously issued in his or her name by the Department of
10 State Police under the provisions of this Act.

11 (2) No person may acquire or possess firearm ammunition
12 within this State without having in his or her possession a
13 Firearm Owner's Identification Card previously issued in
14 his or her name by the Department of State Police under the
15 provisions of this Act.

16 (b) The provisions of this Section regarding the possession
17 of firearms, firearm ammunition, stun guns, and tasers do not
18 apply to:

19 (1) United States Marshals, while engaged in the
20 operation of their official duties;

21 (2) Members of the Armed Forces of the United States,
22 ~~or~~ the National Guard, or the Illinois Naval Militia, while
23 engaged in the operation of their official duties;

24 (3) Federal officials required to carry firearms,

1 while engaged in the operation of their official duties;

2 (4) Members of bona fide veterans organizations which
3 receive firearms directly from the armed forces of the
4 United States, while using the firearms for ceremonial
5 purposes with blank ammunition;

6 (5) Nonresident hunters during hunting season, with
7 valid nonresident hunting licenses and while in an area
8 where hunting is permitted; however, at all other times and
9 in all other places these persons must have their firearms
10 unloaded and enclosed in a case;

11 (6) Those hunters exempt from obtaining a hunting
12 license who are required to submit their Firearm Owner's
13 Identification Card when hunting on Department of Natural
14 Resources owned or managed sites;

15 (7) Nonresidents while on a firing or shooting range
16 recognized by the Department of State Police; however,
17 these persons must at all other times and in all other
18 places have their firearms unloaded and enclosed in a case;

19 (8) Nonresidents while at a firearm showing or display
20 recognized by the Department of State Police; however, at
21 all other times and in all other places these persons must
22 have their firearms unloaded and enclosed in a case;

23 (9) Nonresidents whose firearms are unloaded and
24 enclosed in a case;

25 (10) Nonresidents who are currently licensed or
26 registered to possess a firearm in their resident state;

1 (11) Unemancipated minors while in the custody and
2 immediate control of their parent or legal guardian or
3 other person in loco parentis to the minor if the parent or
4 legal guardian or other person in loco parentis to the
5 minor has a currently valid Firearm Owner's Identification
6 Card;

7 (12) Color guards of bona fide veterans organizations
8 or members of bona fide American Legion bands while using
9 firearms for ceremonial purposes with blank ammunition;

10 (13) Nonresident hunters whose state of residence does
11 not require them to be licensed or registered to possess a
12 firearm and only during hunting season, with valid hunting
13 licenses, while accompanied by, and using a firearm owned
14 by, a person who possesses a valid Firearm Owner's
15 Identification Card and while in an area within a
16 commercial club licensed under the Wildlife Code where
17 hunting is permitted and controlled, but in no instance
18 upon sites owned or managed by the Department of Natural
19 Resources;

20 (14) Resident hunters who are properly authorized to
21 hunt and, while accompanied by a person who possesses a
22 valid Firearm Owner's Identification Card, hunt in an area
23 within a commercial club licensed under the Wildlife Code
24 where hunting is permitted and controlled; and

25 (15) A person who is otherwise eligible to obtain a
26 Firearm Owner's Identification Card under this Act and is

1 under the direct supervision of a holder of a Firearm
2 Owner's Identification Card who is 21 years of age or older
3 while the person is on a firing or shooting range or is a
4 participant in a firearms safety and training course
5 recognized by a law enforcement agency or a national,
6 statewide shooting sports organization.

7 (c) The provisions of this Section regarding the
8 acquisition and possession of firearms, firearm ammunition,
9 stun guns, and tasers do not apply to law enforcement officials
10 of this or any other jurisdiction, while engaged in the
11 operation of their official duties.

12 (Source: P.A. 94-6, eff. 1-1-06.)

13 Section 83. The Criminal Code of 1961 is amended by
14 changing Section 24-9.5 as follows:

15 (720 ILCS 5/24-9.5)

16 Sec. 24-9.5. Handgun safety devices.

17 (a) It is unlawful for a person licensed as a federal
18 firearms dealer under Section 923 of the federal Gun Control
19 Act of 1968 (18 U.S.C. 923) to offer for sale, sell, or
20 transfer a handgun to a person not licensed under that Act,
21 unless he or she sells or includes with the handgun a device or
22 mechanism, other than the firearm safety, designed to render
23 the handgun temporarily inoperable or inaccessible. This
24 includes but is not limited to:

1 (1) An external device that is:

2 (i) attached to the handgun with a key or
3 combination lock; and

4 (ii) designed to prevent the handgun from being
5 discharged unless the device has been deactivated.

6 (2) An integrated mechanical safety, disabling, or
7 locking device that is:

8 (i) built into the handgun; and

9 (ii) designed to prevent the handgun from being
10 discharged unless the device has been deactivated.

11 (b) Sentence. A person who violates this Section is guilty
12 of a Class C misdemeanor and shall be fined not less than
13 \$1,000. A second or subsequent violation of this Section is a
14 Class A misdemeanor.

15 (c) For the purposes of this Section, "handgun" has the
16 meaning ascribed to it in clause (h)(2) of subsection (A) of
17 Section 24-3 of this Code.

18 (d) This Section does not apply to:

19 (1) the purchase, sale, or transportation of a handgun
20 to or by a federally licensed firearms dealer or
21 manufacturer that provides or services a handgun for:

22 (i) personnel of any unit of the federal
23 government;

24 (ii) members of the armed forces of the United
25 States, ~~or~~ the National Guard, or the Illinois Naval
26 Militia;

1 (iii) law enforcement personnel of the State or any
2 local law enforcement agency in the State while acting
3 within the scope of their official duties; and

4 (iv) an organization that is required by federal
5 law governing its specific business or activity to
6 maintain handguns and applicable ammunition;

7 (2) a firearm modified to be permanently inoperative;

8 (3) the sale or transfer of a handgun by a federally
9 licensed firearms dealer or manufacturer described in item
10 (1) of this subsection (d);

11 (4) the sale or transfer of a handgun by a federally
12 licensed firearms dealer or manufacturer to a lawful
13 customer outside the State; or

14 (5) an antique firearm.

15 (Source: P.A. 94-390, eff. 1-1-06.)

16 Section 85. The Illinois Human Rights Act is amended by
17 changing Section 1-103 as follows:

18 (775 ILCS 5/1-103) (from Ch. 68, par. 1-103)

19 Sec. 1-103. General Definitions. When used in this Act,
20 unless the context requires otherwise, the term:

21 (A) Age. "Age" means the chronological age of a person who
22 is at least 40 years old, except with regard to any practice
23 described in Section 2-102, insofar as that practice concerns
24 training or apprenticeship programs. In the case of training or

1 apprenticeship programs, for the purposes of Section 2-102,
2 "age" means the chronological age of a person who is 18 but not
3 yet 40 years old.

4 (B) Aggrieved Party. "Aggrieved party" means a person who
5 is alleged or proved to have been injured by a civil rights
6 violation or believes he or she will be injured by a civil
7 rights violation under Article 3 that is about to occur.

8 (C) Charge. "Charge" means an allegation filed with the
9 Department by an aggrieved party or initiated by the Department
10 under its authority.

11 (D) Civil Rights Violation. "Civil rights violation"
12 includes and shall be limited to only those specific acts set
13 forth in Sections 2-102, 2-103, 2-105, 3-102, 3-103, 3-104,
14 3-104.1, 3-105, 4-102, 4-103, 5-102, 5A-102 and 6-101 of this
15 Act.

16 (E) Commission. "Commission" means the Human Rights
17 Commission created by this Act.

18 (F) Complaint. "Complaint" means the formal pleading filed
19 by the Department with the Commission following an
20 investigation and finding of substantial evidence of a civil
21 rights violation.

22 (G) Complainant. "Complainant" means a person including
23 the Department who files a charge of civil rights violation
24 with the Department or the Commission.

25 (H) Department. "Department" means the Department of Human
26 Rights created by this Act.

1 (I) Handicap. "Handicap" means a determinable physical or
2 mental characteristic of a person, including, but not limited
3 to, a determinable physical characteristic which necessitates
4 the person's use of a guide, hearing or support dog, the
5 history of such characteristic, or the perception of such
6 characteristic by the person complained against, which may
7 result from disease, injury, congenital condition of birth or
8 functional disorder and which characteristic:

9 (1) For purposes of Article 2 is unrelated to the
10 person's ability to perform the duties of a particular job
11 or position and, pursuant to Section 2-104 of this Act, a
12 person's illegal use of drugs or alcohol is not a handicap;

13 (2) For purposes of Article 3, is unrelated to the
14 person's ability to acquire, rent or maintain a housing
15 accommodation;

16 (3) For purposes of Article 4, is unrelated to a
17 person's ability to repay;

18 (4) For purposes of Article 5, is unrelated to a
19 person's ability to utilize and benefit from a place of
20 public accommodation.

21 (J) Marital Status. "Marital status" means the legal status
22 of being married, single, separated, divorced or widowed.

23 (J-1) Military Status. "Military status" means a person's
24 status on active duty in or status as a veteran of the armed
25 forces of the United States, status as a current member or
26 veteran of any reserve component of the armed forces of the

1 United States, including the United States Army Reserve, United
2 States Marine Corps Reserve, United States Navy Reserve, United
3 States Air Force Reserve, and United States Coast Guard
4 Reserve, or status as a current member or veteran of the
5 Illinois Army National Guard, Illinois Naval Militia, or
6 Illinois Air National Guard.

7 (K) National Origin. "National origin" means the place in
8 which a person or one of his or her ancestors was born.

9 (L) Person. "Person" includes one or more individuals,
10 partnerships, associations or organizations, labor
11 organizations, labor unions, joint apprenticeship committees,
12 or union labor associations, corporations, the State of
13 Illinois and its instrumentalities, political subdivisions,
14 units of local government, legal representatives, trustees in
15 bankruptcy or receivers.

16 (M) Public Contract. "Public contract" includes every
17 contract to which the State, any of its political subdivisions
18 or any municipal corporation is a party.

19 (N) Religion. "Religion" includes all aspects of religious
20 observance and practice, as well as belief, except that with
21 respect to employers, for the purposes of Article 2, "religion"
22 has the meaning ascribed to it in paragraph (F) of Section
23 2-101.

24 (O) Sex. "Sex" means the status of being male or female.

25 (O-1) Sexual orientation. "Sexual orientation" means
26 actual or perceived heterosexuality, homosexuality,

1 bisexuality, or gender-related identity, whether or not
2 traditionally associated with the person's designated sex at
3 birth. "Sexual orientation" does not include a physical or
4 sexual attraction to a minor by an adult.

5 (P) Unfavorable Military Discharge. "Unfavorable military
6 discharge" includes discharges from the Armed Forces of the
7 United States, their Reserve components or any National Guard
8 or Naval Militia which are classified as RE-3 or the equivalent
9 thereof, but does not include those characterized as RE-4 or
10 "Dishonorable".

11 (Q) Unlawful Discrimination. "Unlawful discrimination"
12 means discrimination against a person because of his or her
13 race, color, religion, national origin, ancestry, age, sex,
14 marital status, handicap, military status, sexual orientation,
15 or unfavorable discharge from military service as those terms
16 are defined in this Section.

17 (Source: P.A. 93-941, eff. 8-16-04; 93-1078, eff. 1-1-06;
18 94-803, eff. 5-26-06.)

19 Section 87. The Workers' Compensation Act is amended by
20 changing Section 1 as follows:

21 (820 ILCS 305/1) (from Ch. 48, par. 138.1)

22 Sec. 1. This Act may be cited as the Workers' Compensation
23 Act.

24 (a) The term "employer" as used in this Act means:

1 1. The State and each county, city, town, township,
2 incorporated village, school district, body politic, or
3 municipal corporation therein.

4 2. Every person, firm, public or private corporation,
5 including hospitals, public service, eleemosynary, religious
6 or charitable corporations or associations who has any person
7 in service or under any contract for hire, express or implied,
8 oral or written, and who is engaged in any of the enterprises
9 or businesses enumerated in Section 3 of this Act, or who at or
10 prior to the time of the accident to the employee for which
11 compensation under this Act may be claimed, has in the manner
12 provided in this Act elected to become subject to the
13 provisions of this Act, and who has not, prior to such
14 accident, effected a withdrawal of such election in the manner
15 provided in this Act.

16 3. Any one engaging in any business or enterprise referred
17 to in subsections 1 and 2 of Section 3 of this Act who
18 undertakes to do any work enumerated therein, is liable to pay
19 compensation to his own immediate employees in accordance with
20 the provisions of this Act, and in addition thereto if he
21 directly or indirectly engages any contractor whether
22 principal or sub-contractor to do any such work, he is liable
23 to pay compensation to the employees of any such contractor or
24 sub-contractor unless such contractor or sub-contractor has
25 insured, in any company or association authorized under the
26 laws of this State to insure the liability to pay compensation

1 under this Act, or guaranteed his liability to pay such
2 compensation. With respect to any time limitation on the filing
3 of claims provided by this Act, the timely filing of a claim
4 against a contractor or subcontractor, as the case may be,
5 shall be deemed to be a timely filing with respect to all
6 persons upon whom liability is imposed by this paragraph.

7 In the event any such person pays compensation under this
8 subsection he may recover the amount thereof from the
9 contractor or sub-contractor, if any, and in the event the
10 contractor pays compensation under this subsection he may
11 recover the amount thereof from the sub-contractor, if any.

12 This subsection does not apply in any case where the
13 accident occurs elsewhere than on, in or about the immediate
14 premises on which the principal has contracted that the work be
15 done.

16 4. Where an employer operating under and subject to the
17 provisions of this Act loans an employee to another such
18 employer and such loaned employee sustains a compensable
19 accidental injury in the employment of such borrowing employer
20 and where such borrowing employer does not provide or pay the
21 benefits or payments due such injured employee, such loaning
22 employer is liable to provide or pay all benefits or payments
23 due such employee under this Act and as to such employee the
24 liability of such loaning and borrowing employers is joint and
25 several, provided that such loaning employer is in the absence
26 of agreement to the contrary entitled to receive from such

1 borrowing employer full reimbursement for all sums paid or
2 incurred pursuant to this paragraph together with reasonable
3 attorneys' fees and expenses in any hearings before the
4 Illinois Workers' Compensation Commission or in any action to
5 secure such reimbursement. Where any benefit is provided or
6 paid by such loaning employer the employee has the duty of
7 rendering reasonable cooperation in any hearings, trials or
8 proceedings in the case, including such proceedings for
9 reimbursement.

10 Where an employee files an Application for Adjustment of
11 Claim with the Illinois Workers' Compensation Commission
12 alleging that his claim is covered by the provisions of the
13 preceding paragraph, and joining both the alleged loaning and
14 borrowing employers, they and each of them, upon written demand
15 by the employee and within 7 days after receipt of such demand,
16 shall have the duty of filing with the Illinois Workers'
17 Compensation Commission a written admission or denial of the
18 allegation that the claim is covered by the provisions of the
19 preceding paragraph and in default of such filing or if any
20 such denial be ultimately determined not to have been bona fide
21 then the provisions of Paragraph K of Section 19 of this Act
22 shall apply.

23 An employer whose business or enterprise or a substantial
24 part thereof consists of hiring, procuring or furnishing
25 employees to or for other employers operating under and subject
26 to the provisions of this Act for the performance of the work

1 of such other employers and who pays such employees their
2 salary or wages notwithstanding that they are doing the work of
3 such other employers shall be deemed a loaning employer within
4 the meaning and provisions of this Section.

5 (b) The term "employee" as used in this Act means:

6 1. Every person in the service of the State, including
7 members of the General Assembly, members of the Commerce
8 Commission, members of the Illinois Workers' Compensation
9 Commission, and all persons in the service of the University of
10 Illinois, county, including deputy sheriffs and assistant
11 state's attorneys, city, town, township, incorporated village
12 or school district, body politic, or municipal corporation
13 therein, whether by election, under appointment or contract of
14 hire, express or implied, oral or written, including all
15 members of the Illinois National Guard or Illinois Naval
16 Militia while on active duty in the service of the State, and
17 all probation personnel of the Juvenile Court appointed
18 pursuant to Article VI of the Juvenile Court Act of 1987, and
19 including any official of the State, any county, city, town,
20 township, incorporated village, school district, body politic
21 or municipal corporation therein except any duly appointed
22 member of a police department in any city whose population
23 exceeds 200,000 according to the last Federal or State census,
24 and except any member of a fire insurance patrol maintained by
25 a board of underwriters in this State. A duly appointed member
26 of a fire department in any city, the population of which

1 exceeds 200,000 according to the last federal or State census,
2 is an employee under this Act only with respect to claims
3 brought under paragraph (c) of Section 8.

4 One employed by a contractor who has contracted with the
5 State, or a county, city, town, township, incorporated village,
6 school district, body politic or municipal corporation
7 therein, through its representatives, is not considered as an
8 employee of the State, county, city, town, township,
9 incorporated village, school district, body politic or
10 municipal corporation which made the contract.

11 2. Every person in the service of another under any
12 contract of hire, express or implied, oral or written,
13 including persons whose employment is outside of the State of
14 Illinois where the contract of hire is made within the State of
15 Illinois, persons whose employment results in fatal or
16 non-fatal injuries within the State of Illinois where the
17 contract of hire is made outside of the State of Illinois, and
18 persons whose employment is principally localized within the
19 State of Illinois, regardless of the place of the accident or
20 the place where the contract of hire was made, and including
21 aliens, and minors who, for the purpose of this Act are
22 considered the same and have the same power to contract,
23 receive payments and give quittances therefor, as adult
24 employees.

25 3. Every sole proprietor and every partner of a business
26 may elect to be covered by this Act.

1 An employee or his dependents under this Act who shall have
2 a cause of action by reason of any injury, disablement or death
3 arising out of and in the course of his employment may elect to
4 pursue his remedy in the State where injured or disabled, or in
5 the State where the contract of hire is made, or in the State
6 where the employment is principally localized.

7 However, any employer may elect to provide and pay
8 compensation to any employee other than those engaged in the
9 usual course of the trade, business, profession or occupation
10 of the employer by complying with Sections 2 and 4 of this Act.
11 Employees are not included within the provisions of this Act
12 when excluded by the laws of the United States relating to
13 liability of employers to their employees for personal injuries
14 where such laws are held to be exclusive.

15 The term "employee" does not include persons performing
16 services as real estate broker, broker-salesman, or salesman
17 when such persons are paid by commission only.

18 (c) "Commission" means the Industrial Commission created
19 by Section 5 of "The Civil Administrative Code of Illinois",
20 approved March 7, 1917, as amended, or the Illinois Workers'
21 Compensation Commission created by Section 13 of this Act.

22 (Source: P.A. 93-721, eff. 1-1-05.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law."