

AN ACT in relation to economic development.

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

ARTICLE 5.

SOUTHERN ILLINOIS ECONOMIC DEVELOPMENT AUTHORITY ACT

Section 5-5. Short title. This Article may be cited as the Southern Illinois Economic Development Authority Act, and references in this Article to "this Act" mean this Article.

Section 5-10. Findings. The General Assembly determines and declares the following:

(1) that labor surplus areas currently exist in southern Illinois;

(2) that the economic burdens resulting from involuntary unemployment fall, in part, upon the State in the form of increased need for public assistance and reduced tax revenues and, in the event that the unemployed worker and his or her family migrate elsewhere to find work, the burden may also fall upon the municipalities and other taxing districts within the areas of unemployment in the form of reduced tax revenues, thereby endangering their financial ability to support necessary governmental services for their remaining inhabitants;

(3) that the State has a responsibility to help create a favorable climate for new and improved job opportunities for its citizens by encouraging the development of commercial and service businesses and industrial and manufacturing plants within the southern region of Illinois;

(4) that a lack of decent housing contributes to urban blight, crime, anti-social behavior, disease, a higher need for public assistance, reduced tax revenues, and the migration of workers and their families away from areas which fail to offer

adequate, decent, and affordable housing;

(5) that decent, affordable housing is a necessary ingredient of life affording each citizen basic human dignity, a sense of self-worth, confidence, and a firm foundation upon which to build a family and educate children;

(6) that in order to foster civic and neighborhood pride, citizens require access to educational institutions, recreation, parks and open spaces, entertainment, sports, a reliable transportation network, cultural facilities, and theaters; and

(7) that the main purpose of this Act is to promote industrial, commercial, residential, service, transportation, and recreational activities and facilities, thereby reducing the evils attendant upon unemployment and enhancing the public health, safety, morals, happiness, and general welfare of the State.

Section 5-15. Definitions. In this Act:

"Authority" means the Southern Illinois Economic Development Authority.

"Governmental agency" means any federal, State, or local governmental body and any agency or instrumentality thereof, corporate or otherwise.

"Person" means any natural person, firm, partnership, corporation, both domestic and foreign, company, association or joint stock association and includes any trustee, receiver, assignee or personal representative thereof.

"Revenue bond" means any bond issued by the Authority, the principal and interest of which is payable solely from revenues or income derived from any project or activity of the Authority.

"Board" means the Board of Directors of the Southern Illinois Economic Development Authority.

"Governor" means the Governor of the State of Illinois.

"City" means any city, village, incorporated town, or township within the geographical territory of the Authority.

"Industrial project" means the following:

(1) a capital project, including one or more buildings and other structures, improvements, machinery and equipment whether or not on the same site or sites now existing or hereafter acquired, suitable for use by any manufacturing, industrial, research, transportation or commercial enterprise including but not limited to use as a factory, mill, processing plant, assembly plant, packaging plant, fabricating plant, ethanol plant, office building, industrial distribution center, warehouse, repair, overhaul or service facility, freight terminal, research facility, test facility, railroad facility, port facility, solid waste and wastewater treatment and disposal sites and other pollution control facilities, resource or waste reduction, recovery, treatment and disposal facilities, and including also the sites thereof and other rights in land therefore whether improved or unimproved, site preparation and landscaping and all appurtenances and facilities incidental thereto such as utilities, access roads, railroad sidings, truck docking and similar facilities, parking facilities, dockage, wharfage, railroad roadbed, track, trestle, depot, terminal, switching and signaling equipment or related equipment and other improvements necessary or convenient thereto; or

(2) any land, buildings, machinery or equipment comprising an addition to or renovation, rehabilitation or improvement of any existing capital project.

"Commercial project" means any project, including, but not limited to, one or more buildings and other structures, improvements, machinery, and equipment, whether or not on the same site or sites now existing or hereafter acquired, suitable for use by any retail or wholesale concern, distributorship, or agency.

"Project" means an industrial, housing, residential, commercial, or service project, or any combination thereof, provided that all uses fall within one of the categories described above. Any project automatically includes all site

improvements and new construction involving sidewalks, sewers, solid waste and wastewater treatment and disposal sites and other pollution control facilities, resource or waste reduction, recovery, treatment and disposal facilities, parks, open spaces, wildlife sanctuaries, streets, highways, and runways.

"Lease agreement" means an agreement in which a project acquired by the Authority by purchase, gift, or lease is leased to any person or corporation that will use, or cause the project to be used, as a project, upon terms providing for lease rental payments at least sufficient to pay, when due, all principal of and interest and premium, if any, on any bonds, notes, or other evidences of indebtedness of the Authority, issued with respect to the project, providing for the maintenance, insurance, and operation of the project on terms satisfactory to the Authority and providing for disposition of the project upon termination of the lease term, including purchase options or abandonment of the premises, with other terms as may be deemed desirable by the Authority.

"Loan agreement" means any agreement in which the Authority agrees to loan the proceeds of its bonds, notes, or other evidences of indebtedness, issued with respect to a project, to any person or corporation which will use or cause the project to be used as a project, upon terms providing for loan repayment installments at least sufficient to pay, when due, all principal of and interest and premium, if any, on any bonds, notes, or other evidences of indebtedness of the Authority issued with respect to the project, providing for maintenance, insurance, and operation of the project on terms satisfactory to the Authority and providing for other terms deemed advisable by the Authority.

"Financial aid" means the expenditure of Authority funds or funds provided by the Authority for the development, construction, acquisition or improvement of a project, through the issuance of revenue bonds, notes, or other evidences of indebtedness.

"Costs incurred in connection with the development, construction, acquisition or improvement of a project" means the following:

(1) the cost of purchase and construction of all lands and improvements in connection therewith and equipment and other property, rights, easements, and franchises acquired which are deemed necessary for the construction;

(2) financing charges;

(3) interest costs with respect to bonds, notes, and other evidences of indebtedness of the Authority prior to and during construction and for a period of 6 months thereafter;

(4) engineering and legal expenses; and

(5) the costs of plans, specifications, surveys, and estimates of costs and other expenses necessary or incident to determining the feasibility or practicability of any project, together with such other expenses as may be necessary or incident to the financing, insuring, acquisition, and construction of a specific project and the placing of the same in operation.

Section 5-20. Creation.

(a) There is created a political subdivision, body politic, and municipal corporation named the Southern Illinois Economic Development Authority. The territorial jurisdiction of the Authority is that geographic area within the boundaries of the following counties: Franklin, Perry, Randolph, Jackson, Williamson, Saline, Gallatin, Union, Johnson, Pope, Hardin, Alexander, Pulaski, and Massac and any navigable waters and air space located therein.

(b) The governing and administrative powers of the Authority shall be vested in a body consisting of 21 members as follows:

(1) Ex officio member. The Director of Commerce and Economic Opportunity, or a designee of that Department, shall serve as an ex officio member.

(2) Public members. Six members shall be appointed by

the Governor with the advice and consent of the Senate. The county board chairmen of the following counties shall each appoint one member: Franklin, Perry, Randolph, Jackson, Williamson, Saline, Gallatin, Union, Johnson, Pope, Hardin, Alexander, Pulaski, and Massac. All public members shall reside within the territorial jurisdiction of the Authority. The public members shall be persons of recognized ability and experience in one or more of the following areas: economic development, finance, banking, industrial development, state or local government, commercial agriculture, small business management, real estate development, community development, venture finance, organized labor, or civic or community organization.

(c) 11 members shall constitute a quorum.

(d) The chairman of the Authority shall be elected annually by the Board and must be a public member that resides within the territorial jurisdiction of the Authority.

(e) The terms of all initial members of the Authority shall begin 30 days after the effective date of this Act. Of the 6 original public members appointed by the Governor, 2 shall serve until the third Monday in January, 2007; 1 shall serve until the third Monday in January, 2008; 1 shall serve until the third Monday in January, 2009; 1 shall serve until the third Monday in January, 2010; and 1 shall serve until the third Monday in January, 2011. The initial terms of the original public members appointed by the county board chairmen shall be determined by lot, according to the following schedule: (i) 3 shall serve until the third Monday in January, 2007, (ii) 3 shall serve until the third Monday in January, 2008, (iii) 3 shall serve until the third Monday in January, 2009, (iv) 3 shall serve until the third Monday in January, 2010, and (v) 2 shall serve until the third Monday in January, 2011. All successors to these original public members shall be appointed by the original appointing authority and all appointments made by the Governor shall be made with the advice

and consent of the Senate, pursuant to subsection (b), and shall hold office for a term of 6 years commencing the third Monday in January of the year in which their term commences, except in the case of an appointment to fill a vacancy. Vacancies occurring among the public members shall be filled for the remainder of the term. In case of vacancy in a Governor-appointed membership when the Senate is not in session, the Governor may make a temporary appointment until the next meeting of the Senate when a person shall be nominated to fill the office and, upon confirmation by the Senate, he or she shall hold office during the remainder of the term and until a successor is appointed and qualified. Members of the Authority are not entitled to compensation for their services as members but are entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members.

(f) The Governor may remove any public member of the Authority in case of incompetence, neglect of duty, or malfeasance in office. The chairman of a county board may remove any public member appointed by that chairman in the case of incompetence, neglect of duty, or malfeasance in office.

(g) The Board shall appoint an Executive Director who shall have a background in finance, including familiarity with the legal and procedural requirements of issuing bonds, real estate, or economic development and administration. The Executive Director shall hold office at the discretion of the Board. The Executive Director shall be the chief administrative and operational officer of the Authority, shall direct and supervise its administrative affairs and general management, perform such other duties as may be prescribed from time to time by the members, and receive compensation fixed by the Authority. The Department of Commerce and Community Affairs shall pay the compensation of the Executive Director from appropriations received for that purpose. The Executive Director shall attend all meetings of the Authority. However, no action of the Authority shall be invalid on account of the

absence of the Executive Director from a meeting. The Authority may engage the services of the Illinois Finance Authority, attorneys, appraisers, engineers, accountants, credit analysts, and other consultants if the Southern Illinois Economic Development Authority deems it advisable.

Section 5-25. Duty. All official acts of the Authority shall require the approval of at least 11 members. It shall be the duty of the Authority to promote development within the geographic confines of Franklin, Perry, Randolph, Jackson, Williamson, Saline, Gallatin, Union, Johnson, Pope, Hardin, Alexander, Pulaski, and Massac counties. The Authority shall use the powers conferred upon it to assist in the development, construction, and acquisition of industrial, commercial, housing, or residential projects within those counties.

Section 5-30. Powers.

(a) The Authority possesses all the powers of a body corporate necessary and convenient to accomplish the purposes of this Act, including, without any intended limitation upon the general powers hereby conferred, the following powers:

(1) to enter into loans, contracts, agreements, and mortgages in any matter connected with any of its corporate purposes and to invest its funds;

(2) to sue and be sued;

(3) to utilize services of the Illinois Finance Authority necessary to carry out its purposes;

(4) to have and use a common seal and to alter the seal at its discretion;

(5) to adopt all needful ordinances, resolutions, bylaws, rules, and regulations for the conduct of its business and affairs and for the management and use of the projects developed, constructed, acquired, and improved in furtherance of its purposes;

(6) to designate the fiscal year for the Authority;

(7) to accept and expend appropriations;



(8) to acquire, own, lease, sell, or otherwise dispose of interests in and to real property and improvements situated on that real property and in personal property necessary to fulfill the purposes of the Authority;

(9) to engage in any activity or operation which is incidental to and in furtherance of efficient operation to accomplish the Authority's primary purpose;

(10) to acquire, own, construct, lease, operate, and maintain bridges, terminals, terminal facilities, and port facilities and to fix and collect just, reasonable, and nondiscriminatory charges for the use of such facilities. These charges shall be used to defray the reasonable expenses of the Authority and to pay the principal and interest of any revenue bonds issued by the Authority;

(11) subject to any applicable condition imposed by this Act, to locate, establish and maintain a public airport, public airports and public airport facilities within its corporate limits or within or upon any body of water adjacent thereto and to construct, develop, expand, extend and improve any such airport or airport facility; and

(12) to have and exercise all powers and be subject to all duties usually incident to boards of directors of corporations.

(b) The Authority shall not issue any bonds relating to the financing of a project located within the planning and subdivision control jurisdiction of any municipality or county unless: (i) notice, including a description of the proposed project and the financing for that project, is submitted to the corporate authorities of the municipality or, in the case of a proposed project in an unincorporated area, to the county board and (ii) the corporate authorities of the municipality do not, or the county board does not, adopt a resolution disapproving the project within 45 days after receipt of the notice.

(c) If any of the powers set forth in this Act are exercised within the jurisdictional limits of any

municipality, all ordinances of the municipality remain in full force and effect and are controlling.

Section 5-35. Tax avoidance. Notwithstanding any other provision of law, the Authority shall not enter into any agreement providing for the purchase and lease of tangible personal property which results in the avoidance of taxation under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act, or the Service Occupation Tax Act, without the prior written consent of the Governor.

Section 5-40. Bonds.

(a) The Authority, with the written approval of the Governor, shall have the continuing power to issue bonds, notes, or other evidences of indebtedness in an aggregate amount not to exceed \$250,000,000 for the following purposes: (i) development, construction, acquisition, or improvement of projects, including those established by business entities locating or expanding property within the territorial jurisdiction of the Authority; (ii) entering into venture capital agreements with businesses locating or expanding within the territorial jurisdiction of the Authority; and (iii) acquisition and improvement of any property necessary and useful in connection therewith. For the purpose of evidencing the obligations of the Authority to repay any money borrowed, the Authority may, pursuant to resolution, from time to time, issue and dispose of its interest-bearing revenue bonds, notes, or other evidences of indebtedness and may also from time to time issue and dispose of such bonds, notes, or other evidences of indebtedness to refund, at maturity, at a redemption date or in advance of either, any bonds, notes, or other evidences of indebtedness pursuant to redemption provisions or at any time before maturity. All such bonds, notes, or other evidences of indebtedness shall be payable solely and only from the revenues or income to be derived from loans made with respect to projects, from the leasing or sale of the projects, or from any

other funds available to the Authority for such purposes. The bonds, notes, or other evidences of indebtedness may bear such date or dates, may mature at such time or times not exceeding 40 years from their respective dates, may bear interest at such rate or rates not exceeding the maximum rate permitted by the Bond Authorization Act, may be in such form, may carry such registration privileges, may be executed in such manner, may be payable at such place or places, may be made subject to redemption in such manner and upon such terms, with or without premium, as is stated on the face thereof, may be authenticated in such manner and may contain such terms and covenants as may be provided by an applicable resolution.

(b) The holder or holders of any bonds, notes, or other evidences of indebtedness issued by the Authority may bring suits at law or proceedings in equity to compel the performance and observance by any corporation or person or by the Authority or any of its agents or employees of any contract or covenant made with the holders of the bonds, notes, or other evidences of indebtedness, to compel such corporation, person, the Authority, and any of its agents or employees to perform any duties required to be performed for the benefit of the holders of the bonds, notes, or other evidences of indebtedness by the provision of the resolution authorizing their issuance and to enjoin the corporation, person, the Authority, and any of its agents or employees from taking any action in conflict with any contract or covenant.

(c) If the Authority fails to pay the principal of or interest on any of the bonds or premium, if any, as the bond becomes due, a civil action to compel payment may be instituted in the appropriate circuit court by the holder or holders of the bonds on which the default of payment exists or by an indenture trustee acting on behalf of the holders. Delivery of a summons and a copy of the complaint to the chairman of the Board shall constitute sufficient service to give the circuit court jurisdiction over the subject matter of the suit and jurisdiction over the Authority and its officers named as

defendants for the purpose of compelling such payment. Any case, controversy, or cause of action concerning the validity of this Act relates to the revenue of the State of Illinois.

(d) Notwithstanding the form and tenor of any bond, note, or other evidence of indebtedness and in the absence of any express recital on its face that it is non-negotiable, all such bonds, notes, and other evidences of indebtedness shall be negotiable instruments. Pending the preparation and execution of any bonds, notes, or other evidences of indebtedness, temporary bonds, notes, or evidences of indebtedness may be issued as provided by ordinance.

(e) To secure the payment of any or all of such bonds, notes, or other evidences of indebtedness, the revenues to be received by the Authority from a lease agreement or loan agreement shall be pledged, and, for the purpose of setting forth the covenants and undertakings of the Authority in connection with the issuance of the bonds, notes, or other evidences of indebtedness and the issuance of any additional bonds, notes or other evidences of indebtedness payable from such revenues, income, or other funds to be derived from projects, the Authority may execute and deliver a mortgage or trust agreement. A remedy for any breach or default of the terms of any mortgage or trust agreement by the Authority may be by mandamus proceeding in the appropriate circuit court to compel performance and compliance under the terms of the mortgage or trust agreement, but the trust agreement may prescribe by whom or on whose behalf the action may be instituted.

(f) Bonds or notes shall be secured as provided in the authorizing ordinance which may include, notwithstanding any other provision of this Act, in addition to any other security, a specific pledge, assignment of and lien on, or security interest in any or all revenues or money of the Authority, from whatever source, which may, by law, be used for debt service purposes and a specific pledge, or assignment of and lien on, or security interest in any funds or accounts established or

provided for by ordinance of the Authority authorizing the issuance of the bonds or notes.

(g) The State of Illinois pledges to and agrees with the holders of the bonds and notes of the Authority issued pursuant to this Section that the State will not limit or alter the rights and powers vested in the Authority by this Act so as to impair the terms of any contract made by the Authority with the holders of bonds or notes or in any way impair the rights and remedies of those holders until the bonds and notes, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders, are fully met and discharged. In addition, the State pledges to and agrees with the holders of the bonds and notes of the Authority issued pursuant to this Section that the State will not limit or alter the basis on which State funds are to be paid to the Authority as provided in this Act, or the use of such funds, so as to impair the terms of any such contract. The Authority is authorized to include these pledges and agreements of the State in any contract with the holders of bonds or notes issued pursuant to this Section.

(h) Not less than 30 days prior to the commitment to issue bonds, notes, or other evidences of indebtedness for the purpose of developing, constructing, acquiring, or improving housing or residential projects, as defined in this Act, the Authority shall provide notice to the Executive Director of the Illinois Housing Development Authority. Within 30 days after the notice is provided, the Illinois Housing Development Authority shall, in writing, either express interest in financing the project or notify the Authority that it is not interested in providing financing and that the Authority may finance the project or seek alternative financing.

Section 5-45. Bonds and notes; exemption from taxation. The creation of the Authority is in all respects for the benefit of the people of Illinois and for the improvement of their health,

safety, welfare, comfort, and security, and its purposes are public purposes. In consideration thereof, the notes and bonds of the Authority issued pursuant to this Act and the income from these notes and bonds may be free from all taxation by the State or its political subdivisions, exempt for estate, transfer, and inheritance taxes. The exemption from taxation provided by the preceding sentence shall apply to the income on any notes or bonds of the Authority only if the Authority in its sole judgment determines that the exemption enhances the marketability of the bonds or notes or reduces the interest rates that would otherwise be borne by the bonds or notes. For purposes of Section 250 of the Illinois Income Tax Act, the exemption of the Authority shall terminate after all of the bonds have been paid. The amount of such income that shall be added and then subtracted on the Illinois income tax return of a taxpayer, subject to Section 203 of the Illinois Income Tax Act, from federal adjusted gross income or federal taxable income in computing Illinois base income shall be the interest net of any bond premium amortization.

Section 5-50. Acquisition.

(a) The Authority may, but need not, acquire title to any project with respect to which it exercises its authority.

(b) The Authority shall have power to acquire by purchase, lease, gift, or otherwise any property or rights therein from any person or persons, the State of Illinois, any municipal corporation, any local unit of government, the government of the United States and any agency or instrumentality of the United States, any body politic, or any county useful for its purposes, whether improved for the purposes of any prospective project or unimproved. The Authority may also accept any donation of funds for its purposes from any of these sources.

(c) The Authority shall have power to develop, construct, and improve, either under its own direction or through collaboration with any approved applicant, or to acquire, through purchase or otherwise, any project, using for this

purpose the proceeds derived from its sale of revenue bonds, notes, or other evidences of indebtedness or governmental loans or grants and shall have the power to hold title to those projects in the name of the Authority.

(d) The Authority shall have the power to enter into intergovernmental agreements with the State of Illinois, the counties of Franklin, Perry, Randolph, Jackson, Williamson, Saline, Gallatin, Union, Johnson, Pope, Hardin, Alexander, Pulaski, or Massac, the Illinois Finance Authority, the Illinois Housing Development Authority, the United States government and any agency or instrumentality of the United States, any unit of local government located within the territory of the Authority, or any other unit of government to the extent allowed by Article VII, Section 10 of the Illinois Constitution and the Intergovernmental Cooperation Act.

(e) The Authority shall have the power to share employees with other units of government, including agencies of the United States, agencies of the State of Illinois, and agencies or personnel of any unit of local government.

(f) The Authority shall have the power to exercise powers and issue bonds as if it were a municipality so authorized in Divisions 12.1, 74, 74.1, 74.3, and 74.5 of Article 11 of the Illinois Municipal Code.

Section 5-60. Designation of depository. The Authority shall biennially designate a national or State bank or banks as depositories of its money. Such depositories shall be designated only within the State and upon condition that bonds approved as to form and surety by the Authority and at least equal in amount to the maximum sum expected to be on deposit at any one time shall be first given by such depositories to the Authority, such bonds to be conditioned for the safe keeping and prompt repayment of such deposits. When any of the funds of the Authority shall be deposited by the treasurer in any such depository, the treasurer and the sureties on his official bond shall, to such extent, be exempt from liability for the loss of

any such deposited funds by reason of the failure, bankruptcy, or any other act or default of such depository; provided that the Authority may accept assignments of collateral by any depository of its funds to secure such deposits to the same extent and conditioned in the same manner as assignments of collateral are permitted by law to secure deposits of the funds of any city.

Section 5-65. Taxation prohibited. The Authority shall have no right or authority to levy any tax or special assessment, to pledge the credit of the State or any other subdivision or municipal corporation thereof, or to incur any obligation enforceable upon any property, either within or without the territory of the Authority.

Section 5-70. Fees. The Authority may collect fees and charges in connection with its loans, commitments, and servicing and may provide technical assistance in the development of the region.

Section 5-75. Reports. The Authority shall annually submit a report of its finances to the Auditor General. The Authority shall annually submit a report of its activities to the Governor and to the General Assembly.

#### ARTICLE 10.

##### RIVER EDGE REDEVELOPMENT ZONE ACT

Section 10-1. This Article may be cited as the River Edge Redevelopment Zone Act, and references in this Article to "this Act" mean this Article.

Section 10-2. Findings. The General Assembly finds and declares that those municipalities adjacent to or surrounding river areas often lack critical tools to safely revive and redevelop environmentally-challenged properties that will



stimulate economic revitalization and create jobs in Illinois. Environmentally-challenged properties adjacent to or surrounding Illinois rivers are a threat to the health, safety, and welfare of the people of this State. Many of these environmentally-challenged properties adjacent to or surrounding rivers were former industrial areas that now, subject to appropriate environmental clean-up and remediation, would be ideal for office, residential, retail, hospitality, commercial, recreational, warehouse and distribution, and other economically productive uses. The cost of the cleaning and remediation of these environmentally-challenged properties is often the primary obstacle to returning these properties to a safe and economically productive use.

Cooperative and continuous partnership among the State, through the Department of Commerce and Economic Opportunity and the Environmental Protection Agency, municipalities adjacent to or surrounding rivers, and the private sector is necessary to appropriately encourage the cost-effective cleaning and remediation of these environmentally-challenged properties in order to bring about a safe and economically productive use of the properties.

Therefore, it is declared to be the purpose of this Act to identify and initiate 2 pilot River Edge Redevelopment Zones to stimulate the safe and cost-effective re-use of environmentally-challenged properties adjacent to or surrounding rivers by means of tax incentives or grants.

Section 10-3. Definitions. As used in this Act:

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

"River Edge Redevelopment Zone" means an area of the State certified by the Department as a River Edge Redevelopment Zone pursuant to this Act.

"Designated zone organization" means an association or entity: (1) the members of which are substantially all residents of the River Edge Redevelopment Zone or of the

municipality in which the River Edge Redevelopment Zone is located; (2) the board of directors of which is elected by the members of the organization; (3) that satisfies the criteria set forth in Section 501(c) (3) or 501(c) (4) of the Internal Revenue Code; and (4) that exists primarily for the purpose of performing within the zone, for the benefit of the residents and businesses thereof, any of the functions set forth in Section 8 of this Act.

"Agency" means: each officer, board, commission, and agency created by the Constitution, in the executive branch of State government, other than the State Board of Elections; each officer, department, board, commission, agency, institution, authority, university, and body politic and corporate of the State; each administrative unit or corporate outgrowth of the State government that is created by or pursuant to statute, other than units of local government and their officers, school districts, and boards of election commissioners; and each administrative unit or corporate outgrowth of the above and as may be created by executive order of the Governor. No entity is an "agency" for the purposes of this Act unless the entity is authorized by law to make rules or regulations.

"Rule" means each agency statement of general applicability that implements, applies, interprets, or prescribes law or policy, but does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures available to persons or entities outside the agency, (ii) intra-agency memoranda, or (iii) the prescription of standardized forms.

Section 10-4. Qualifications for River Edge Redevelopment Zones. An area is qualified to become a zone if it:

(1) is a contiguous area adjacent to or surrounding a river;

(2) comprises a minimum of one half square mile and not more than 12 square miles, exclusive of lakes and waterways;

(3) satisfies any additional criteria established by the Department consistent with the purposes of this Act;

(4) is entirely within a single home rule municipality; and

(5) has at least 100 acres of environmentally challenged land within 1500 yards of the riverfront.

Section 10-5. Initiation of River Edge Redevelopment Zones by Municipality.

(a) No area may be designated as a river edge redevelopment zone except pursuant to an initiating ordinance adopted in accordance with this Section.

(b) A municipality may by ordinance designate an area within its jurisdiction as a river edge redevelopment zone, subject to the certification of the Department in accordance with this Act, if:

(i) the area is qualified in accordance with Section 10-4; and

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

(c) An ordinance designating an area as a river edge redevelopment zone shall set forth:

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

(ii) a finding that the zone area meets the qualifications of Section 10-4;

(iii) provisions for any tax incentives or

reimbursement for taxes, which pursuant to State and federal law apply to business enterprises within the zone at the election of the designating municipality, and which are not applicable throughout the municipality;

(iv) a designation of the area as a river edge redevelopment zone, subject to the approval of the Department in accordance with this Act; and

(v) the duration or term of the river edge redevelopment zone.

(d) This Section does not prohibit a municipality from extending additional tax incentives or reimbursement for business enterprises in river edge redevelopment zones or throughout their territory by separate ordinance.

Section 10-5.1. Application to Department. A municipality that has adopted an ordinance designating an area as a river edge redevelopment zone shall make written application to the Department to have the proposed zone certified. The application shall include:

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

(2) a map of the proposed zone;

(3) an analysis, and any appropriate supporting documents, demonstrating that the proposed zone area is qualified in accordance with Section 10-4;

(4) a statement detailing any tax, grant, and other financial incentives or benefits, and any programs, to be provided by the municipality to business enterprises or organizations within the zone, other than those provided in the designating ordinance, which are not to be provided throughout the municipality;

(5) a statement setting forth the economic development and planning objectives for the zone;

(6) an estimate of the economic impact of the zone, considering all of the tax incentives, financial benefits and programs contemplated, upon the revenues of the

municipality;

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

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

(9) such additional information as the Department by rule may require.

Section 10-5.2. Department Review of River Edge Redevelopment Zone Applications.

(a) All applications must be considered and acted upon by the Department no later than 180 days after being received by the Department.

(b) Upon receipt of an application from a municipality the Department shall review the application to determine whether the designated area qualifies as a River Edge Redevelopment Zone under Section 10-4 of this Act.

(c) If any such designated area is found to be qualified to be a River Edge Redevelopment Zone, the Department shall publish a notice in at least one newspaper of general circulation within the municipality in which the proposed zone is located to notify the general public of the application and their opportunity to comment. Such notice shall include a description of the area and a brief summary of the application and shall indicate locations where the applicant has provided copies of the application for public inspection. The notice shall also indicate appropriate procedures for the filing of written comments from zone residents, business, civic, and other organizations and property owners to the Department.

(d) Within 180 days after receiving an application, the Department shall either approve or deny that application. If an approval of an application is not received within 180 days after the Department's receipt of the application, then the application is considered to be denied. If an application is denied, the Department shall inform the municipality of the specific reasons for the denial.

(e) In determining which designated areas shall be approved and certified as River Edge Redevelopment Zones, the Department shall give preference to:

(1) areas with high levels of environmentally challenged areas;

(2) areas that have evidenced the widest support from the municipality seeking to have such areas designated as River Edge Redevelopment Zones;

(3) areas for which a specific plan has been submitted to effect economic growth and expansion;

(4) areas for which there is evidence of prior consultation between the municipality seeking designation of an area as an River Edge Redevelopment Zone and business, labor, and neighborhood organizations within the proposed Zone;

(5) areas for which a specific plan has been submitted which will or may be expected to benefit zone residents and workers by increasing their ownership opportunities and participation in a River Edge Redevelopment Zone development.

(f) The Department's determination of whether to certify a River Edge Redevelopment Zone shall be based on the purposes of this Act, the criteria set forth in Section 10-4 and subsection (e) of this Section, and any additional criteria adopted by regulation of the Department under paragraph (d) of Section 10-4.

Section 10-5.3. Certification of River Edge Redevelopment Zones.

(a) Approval of designated River Edge Redevelopment Zones shall be made by the Department by certification of the designating ordinance. The Department shall promptly issue a certificate for each zone upon its approval. The certificate shall be signed by the Director of the Department, shall make specific reference to the designating ordinance, which shall be attached thereto, and shall be filed in the office of the

Secretary of State. A certified copy of the River Edge Redevelopment Zone Certificate, or a duplicate original thereof, shall be recorded in the office of the recorder of deeds of the county in which the River Edge Redevelopment Zone lies.

(b) A River Edge Redevelopment Zone shall be effective upon its certification. The Department shall transmit a copy of the certification to the Department of Revenue, and to the designating municipality. Upon certification of a River Edge Redevelopment Zone, the terms and provisions of the designating ordinance shall be in effect, and may not be amended or repealed except in accordance with Section 10-5.4.

(c) A River Edge Redevelopment Zone shall be in effect for the period stated in the certificate, which shall in no event exceed 30 calendar years. Zones shall terminate at midnight of December 31 of the final calendar year of the certified term, except as provided in Section 10-5.4.

(d) In calendar years 2006 and 2007, the Department may certify one pilot River Edge Redevelopment Zone in the City of East St. Louis and one pilot River Edge Redevelopment Zone in the City of Aurora.

Thereafter the Department may not certify any additional River Edge Redevelopment Zones, but may amend and rescind certifications of existing River Edge Redevelopment Zones in accordance with Section 10-5.4.

(e) A municipality in which a River Edge Redevelopment Zone has been certified must submit to the Department, within 60 days after the certification, a plan for encouraging the participation by minority persons, females, persons with disabilities, and veterans in the zone. The Department may assist the municipality in developing and implementing the plan. The terms "minority person", "female", and "person with a disability" have the meanings set forth under Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act. "Veteran" means an Illinois resident who is a veteran as defined in subsection (h) of Section 1491 of Title

10 of the United States Code.

Section 10-5.4. Amendment and decertification of River Edge Redevelopment Zones.

(a) The terms of a certified zone designating ordinance may be amended to:

- (1) alter the boundaries of the Zone;
- (2) expand, limit or repeal tax incentives or benefits provided in the ordinance;
- (3) alter the termination date of the zone; or
- (4) make technical corrections in the river edge redevelopment zone designating ordinance.

An amendment shall not be effective unless the Department issues an amended certificate for the River Edge Redevelopment Zone, approving the amended designating ordinance. Upon the adoption of any ordinance amending or repealing the terms of a certified river edge redevelopment zone designating ordinance, the municipality shall promptly file with the Department an application for approval thereof, containing substantially the same information as required for an application under Section 10-5.1 insofar as material to the proposed changes. The municipality must hold a public hearing on the proposed changes as specified in Section 10-5 and, if the amendment is to effectuate the limitation of tax abatements under Section 10-5.4.1, then the public notice of the hearing shall state that property that is in both the zone and a redevelopment project area may not receive tax abatements unless within 60 days after the adoption of the amendment to the designating ordinance the municipality has determined that eligibility for tax abatements has been established.

(b) The Department shall approve or disapprove a proposed amendment to a certified zone within 90 days after its receipt of the application from the municipality. The Department may not approve changes in a Zone that are not in conformity with this Act, as now or hereafter amended, or with other applicable laws. If the Department issues an amended certificate for a



Zone, the amended certificate, together with the amended zone designating ordinance, shall be filed, recorded, and transmitted as provided in Section 10-5.3.

(c) A River Edge Redevelopment Zone may be decertified by joint action of the Department and by the municipality in which the River Edge Development Zone is located. The designating municipality shall conduct at least one public hearing within the zone prior to its adoption of an ordinance of decertification. The mayor of the designating municipality shall execute a joint decertification agreement with the Department. A decertification of a River Edge Redevelopment Zone that was initiated by the joint action of the Department and one or more of the municipalities in which the zone is located shall not become effective until at least 6 months after the execution of the decertification agreement, which shall be filed in the office of the Secretary of State.

(d) A River Edge Redevelopment Zone may be decertified for cause by the Department in accordance with this Section. Prior to decertification:

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

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

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

If such corrective action is not achieved during the probationary period, the Department shall issue an amended certificate signed by the Director of the Department decertifying the zone, which certificate shall be filed in the office of the Secretary of State. A certified copy of the amended certificate, or a duplicate original thereof, shall be recorded in the office of recorder of the county in which the

River Edge Redevelopment Zone lies, and shall be provided to the chief elected official of the designating municipality. Decertification of a River Edge Redevelopment Zone for cause shall not become effective until 60 days after the date of filing.

(e) In the event of a decertification, an amendment reducing the length of the term or the area of a River Edge Redevelopment Zone, or the adoption of an ordinance reducing or eliminating tax benefits in a zone, all benefits previously extended within the zone pursuant to this Act or pursuant to any other Illinois law providing benefits specifically to or within River Edge Redevelopment Zones shall remain in effect for the original stated term of the zone, with respect to business enterprises within the zone on the effective date of such decertification or amendment.

(f) With respect to a business enterprise (or expansion thereof) that is proposed or under development within a zone at the time of a decertification or an amendment reducing the length of the term of the zone, or excluding from the zone area the site of the proposed enterprise, or an ordinance reducing or eliminating tax benefits in a zone, such business enterprise is entitled to the benefits previously applicable within the zone for the original stated term of the zone, if the business enterprise establishes:

(i) that the proposed business enterprise or expansion has been committed to be located within the zone;

(ii) that substantial and binding financial obligations have been made towards the development of such enterprise; and

(iii) that such commitments have been made in reasonable reliance on the benefits and programs which were to have been applicable to the enterprise by reason of the zone, including in the case of a reduction in term of a zone, the original length of the term.

In declaratory judgment actions under this subsection, the Department and the designating municipality shall be necessary

parties defendant.

Section 10-5.4.1. Adoption of tax increment financing.

(a) If (i) a redevelopment project area is, will be, or has been created by a municipality under Division 74.4 of Article 11 of the Illinois Municipal Code, (ii) the redevelopment project area contains property that is located in a River Edge Redevelopment Zone, (iii) the municipality adopts an amendment to the River Edge Redevelopment Zone designating ordinance pursuant to Section 10-4 of this Act specifically concerning the abatement of taxes on property located within a redevelopment project area created pursuant to Division 74.4 of Article 11 of the Illinois Municipal Code, and (iv) the Department certifies the ordinance amendment, then the property that is located in both the River Edge Redevelopment Zone and the redevelopment project area shall not be eligible for the abatement of taxes under Section 18-170 of the Property Tax Code.

No business enterprise or expansion or individual, however, that has constructed a new improvement or renovated or rehabilitated an existing improvement and has received an abatement on the improvement under Section 18-170 of the Property Tax Code shall be denied any benefit previously extended within the zone pursuant to this Act or pursuant to any other Illinois law providing benefits specifically to or within River Edge Redevelopment Zones. Moreover, if the business enterprise or individual presents evidence to the municipality within 30 days after the adoption by the municipality of an amendment to the designating ordinance the sufficiency of which shall be determined by findings of the corporate authorities made within 30 days of the receipt of such evidence by the municipality, that before the date of the notice of the public hearing provided by the municipality regarding the amendment to the designating ordinance (i) the business enterprise or expansion or individual was committed to locate within the River Edge Redevelopment Zone, (ii)

substantial and binding financial obligations were made towards the development of the enterprise, and (iii) those commitments were made in reasonable reliance on the benefits and programs that were applicable to the enterprise or individual by reason of River Edge Redevelopment Zone, then the enterprise or expansion or individual shall not be denied any benefit previously extended within the zone pursuant to this Act or pursuant to any other Illinois law providing benefits specifically to or within River Edge Redevelopment Zones.

(b) This Section applies to all property located within both a redevelopment project area adopted under Division 74.4 of Article 11 of the Illinois Municipal Code and a River Edge Redevelopment Zone even if the redevelopment project area was adopted before the effective date of this Act.

(c) After the effective date of this Act, if (i) a redevelopment project area is created by a municipality under Division 74.4 of Article 11 of the Illinois Municipal Code and (ii) the redevelopment project area contains property that is located in a River Edge Redevelopment Zone, the municipality must adopt an amendment to the certified River Edge Redevelopment Zone designating ordinance under Section 10-5.4 specifying that property that is located in both the River Edge Redevelopment Zone and the redevelopment project area shall not be eligible for any abatement of taxes under Section 18-170 of the Property Tax Code for new improvements or the renovation or rehabilitation of existing improvements.

(d) In declaratory judgment actions under this Section, the Department and the designating municipality shall be necessary parties defendant.

Section 10-6. Powers and duties of Department.

(a) The Department shall administer this Act and shall have the following powers and duties:

(1) To monitor the implementation of this Act and submit reports evaluating the effectiveness of the program and setting forth any suggestions for legislation to the

Governor and General Assembly by October 1 of each year preceding a regular Session of the General Assembly.

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

(b) The Department shall provide information and appropriate assistance to persons desiring to locate and engage in business in a River Edge Redevelopment Zone and to persons engaged in business in a zone.

(c) The Department shall publicize existing tax incentives and economic development programs within the Zone and upon request, offer technical assistance in abatement and alternative revenue source development to local units of government which have River Edge Redevelopment Zones within their jurisdiction.

(d) In addition to the reports authorized under subsection (a), no later than December 31, 2009, the Department must submit a report to the General Assembly evaluating the effectiveness of this Act in stimulating economic revitalization in the pilot River Edge Redevelopment Zones authorized by this Act.

Section 10-8. Zone Administration. The administration of a River Edge Redevelopment Zone shall be under the jurisdiction of the designating municipality. Each designating municipality shall, by ordinance, designate a Zone Administrator for the certified zones within its jurisdiction. A Zone Administrator must be an officer or employee of the municipality. The Zone Administrator shall be the liaison between the designating municipality, the Department, and any designated zone organizations within zones under his or her jurisdiction.

A designating municipality may designate one or more organizations to be a designated zone organization, as defined under Section 10-3. The municipality, may, by ordinance, delegate functions within a River Edge Redevelopment Zone to one or more designated zone organizations in such zones.

Subject to the necessary governmental authorizations, designated zone organizations may, in coordination with the municipality, provide or contract for provision of public services including, but not limited to:

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

Section 10-9. Notice of cessation of business operations. Any business located within the River Edge Redevelopment Zone that has received tax credits or exemptions, regulatory relief or any other benefits under this Act shall notify the Department and the municipal officials in which the Zone is located within 60 days after the cessation of any business operations conducted within the Zone. The Department shall adopt rules to implement and administer this Section.

Section 10-10. Income tax deduction.

(a) A business entity may receive a deduction against income subject to State taxes for a contribution to a designated zone organization if the project for which the contribution is made has been specifically approved by the

designating municipality and by the Department.

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

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

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

(3) The project must lack sufficient resources.

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

(c) The project must enhance the River Edge Redevelopment Zone in one of the following ways:

(1) by creating permanent jobs;

(2) by physically improving the housing stock;

(3) by stimulating neighborhood business activity; or

(4) by preventing crime.

(d) If the designated zone organization demonstrates its ability to meet the criteria in subsection (b), and the project will enhance the neighborhood in one of the ways listed in subsection (c), the Department shall approve the organization's proposed project and specify the amount of contributions it is eligible to receive for such project. Comments from State elected officials and municipal officials of the units of local government in which all or part of the river edge redevelopment zone is located, or in which the project is proposed to be located, shall be solicited by the Department in making such decision.

(e) Within 45 days of the receipt of an application, the Department shall give notice to the applicant as to whether the application has been approved or disapproved. If the Department disapproves the application, it shall specify the reasons for this decision and allow 60 days for the applicant to amend and resubmit its application. The Department shall provide

assistance upon request to applicants. Resubmitted applications shall receive the Department's approval or disapproval within 30 days of resubmission. Those resubmitted applications satisfying initial Department objectives shall be approved unless reasonable circumstances warrant disapproval.

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

(g) For any project which is approved and for which there is a specified amount of contributions which the designated zone organization may receive as provided in subsection (d) of this Section, the designated zone organization shall provide to the Department any information necessary to determine the eligibility of a contribution to the project for a deduction pursuant to subsection (b) (2) (N) of Section 203 of the Illinois Income Tax Act. The Department shall certify to the Department of Revenue the taxpayers eligible for and the amounts of contributions which those taxpayers may claim as a deduction pursuant to subsection (b) (2) (N) of Section 203 of the Illinois Income Tax Act. The total of all actual contributions approved by the Department for deductions pursuant to subsection (b) (2) (N) of Section 203 of the Illinois Income Tax Act shall not exceed \$15,400,000 in any one calendar year.

#### ARTICLE 90.

##### AMENDATORY PROVISIONS

Section 90-5. The Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois is amended by adding Section 605-907 as follows:

(20 ILCS 605/605-907 new)

Sec. 605-907. River Edge Redevelopment Zone assistance program. The Department may establish and maintain a program to provide, subject to appropriation, grants and assistance in



connection River Edge Redevelopment Zones that are established under the River Edge Redevelopment Zone Act. The Department may adopt any rules necessary for the administration of the program under this Section.

Section 90-10. The Corporate Accountability for Tax Expenditures Act is amended by changing Section 5 as follows:

(20 ILCS 715/5)

Sec. 5. Definitions. As used in this Act:

"Base years" means the first 2 complete calendar years following the effective date of a recipient receiving development assistance.

"Date of assistance" means the commencement date of the assistance agreement, which date triggers the period during which the recipient is obligated to create or retain jobs and continue operations at the specific project site.

"Default" means that a recipient has not achieved its job creation, job retention, or wage or benefit goals, as applicable, during the prescribed period therefor.

"Department" means, unless otherwise noted, the Department of Commerce and Economic Opportunity ~~Community Affairs~~ or any successor agency.

"Development assistance" means (1) tax credits and tax exemptions (other than given under tax increment financing) given as an incentive to a recipient business organization pursuant to an initial certification or an initial designation made by the Department under the Economic Development for a Growing Economy Tax Credit Act, River Edge Redevelopment Zone Act, and the Illinois Enterprise Zone Act, including the High Impact Business program, (2) grants or loans given to a recipient as an incentive to a business organization pursuant to the River Edge Redevelopment Zone Act, Large Business Development Program, the Business Development Public Infrastructure Program, or the Industrial Training Program, (3) the State Treasurer's Economic Program Loans, (4) the

Illinois Department of Transportation Economic Development Program, and (5) all successor and subsequent programs and tax credits designed to promote large business relocations and expansions. "Development assistance" does not include tax increment financing, assistance provided under the Illinois Enterprise Zone Act and River Edge Redevelopment Zone Act pursuant to local ordinance, participation loans, or financial transactions through statutorily authorized financial intermediaries in support of small business loans and investments or given in connection with the development of affordable housing.

"Development assistance agreement" means any agreement executed by the State granting body and the recipient setting forth the terms and conditions of development assistance to be provided to the recipient consistent with the final application for development assistance, including but not limited to the date of assistance, submitted to and approved by the State granting body.

"Full-time, permanent job" means either: (1) the definition therefor in the legislation authorizing the programs described in the definition of development assistance in the Act or (2) if there is no such definition, then as defined in administrative rules implementing such legislation, provided the administrative rules were in place prior to the effective date of this Act. On and after the effective date of this Act, if there is no definition of "full-time, permanent job" in either the legislation authorizing a program that constitutes economic development assistance under this Act or in any administrative rule implementing such legislation that was in place prior to the effective date of this Act, then "full-time, permanent job" means a job in which the new employee works for the recipient at a rate of at least 35 hours per week.

"New employee" means either: (1) the definition therefor in the legislation authorizing the programs described in the definition of development assistance in the Act or (2) if there

is no such definition, then as defined in administrative rules implementing such legislation, provided the administrative rules were in place prior to the effective date of this Act. On and after the effective date of this Act, if there is no definition of "new employee" in either the legislation authorizing a program that constitutes economic development assistance under this Act nor in any administrative rule implementing such legislation that was in place prior to the effective date of this Act, then "new employee" means a full-time, permanent employee who represents a net increase in the number of the recipient's employees statewide. "New employee" includes an employee who previously filled a new employee position with the recipient who was rehired or called back from a layoff that occurs during or following the base years.

The term "New Employee" does not include any of the following:

(1) An employee of the recipient who performs a job that was previously performed by another employee in this State, if that job existed in this State for at least 6 months before hiring the employee.

(2) A child, grandchild, parent, or spouse, other than a spouse who is legally separated from the individual, of any individual who has a direct or indirect ownership interest of at least 5% in the profits, capital, or value of any member of the recipient.

"Part-time job" means either: (1) the definition therefor in the legislation authorizing the programs described in the definition of development assistance in the Act or (2) if there is no such definition, then as defined in administrative rules implementing such legislation, provided the administrative rules were in place prior to the effective date of this Act. On and after the effective date of this Act, if there is no definition of "part-time job" in either the legislation authorizing a program that constitutes economic development assistance under this Act or in any administrative rule

implementing such legislation that was in place prior to the effective date of this Act, then "part-time job" means a job in which the new employee works for the recipient at a rate of less than 35 hours per week.

"Recipient" means any business that receives economic development assistance. A business is any corporation, limited liability company, partnership, joint venture, association, sole proprietorship, or other legally recognized entity.

"Retained employee" means either: (1) the definition therefor in the legislation authorizing the programs described in the definition of development assistance in the Act or (2) if there is no such definition, then as defined in administrative rules implementing such legislation, provided the administrative rules were in place prior to the effective date of this Act. On and after the effective date of this Act, if there is no definition of "retained employee" in either the legislation authorizing a program that constitutes economic development assistance under this Act or in any administrative rule implementing such legislation that was in place prior to the effective date of this Act, then "retained employee" means any employee defined as having a full-time or full-time equivalent job preserved at a specific facility or site, the continuance of which is threatened by a specific and demonstrable threat, which shall be specified in the application for development assistance.

"Specific project site" means that distinct operational unit to which any development assistance is applied.

"State granting body" means the Department, any State department or State agency that provides development assistance that has reporting requirements under this Act, and any successor agencies to any of the preceding.

"Temporary job" means either: (1) the definition therefor in the legislation authorizing the programs described in the definition of development assistance in the Act or (2) if there is no such definition, then as defined in administrative rules implementing such legislation, provided the administrative

rules were in place prior to the effective date of this Act. On and after the effective date of this Act, if there is no definition of "temporary job" in either the legislation authorizing a program that constitutes economic development assistance under this Act or in any administrative rule implementing such legislation that was in place prior to the effective date of this Act, then "temporary job" means a job in which the new employee is hired for a specific duration of time or season.

"Value of assistance" means the face value of any form of development assistance.

(Source: P.A. 93-552, eff. 8-20-03; revised 12-6-03.)

Section 90-15. The Illinois Income Tax Act is amended by changing Sections 201 and 203 as follows:

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

Sec. 201. Tax Imposed.

(a) In general. A tax measured by net income is hereby imposed on every individual, corporation, trust and estate for each taxable year ending after July 31, 1969 on the privilege of earning or receiving income in or as a resident of this State. Such tax shall be in addition to all other occupation or privilege taxes imposed by this State or by any municipal corporation or political subdivision thereof.

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

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

(2) In the case of an individual, trust or estate, for taxable years beginning prior to July 1, 1989 and ending after June 30, 1989, an amount equal to the sum of (i) 2 1/2% of the taxpayer's net income for the period prior to

July 1, 1989, as calculated under Section 202.3, and (ii) 3% of the taxpayer's net income for the period after June 30, 1989, as calculated under Section 202.3.

(3) In the case of an individual, trust or estate, for taxable years beginning after June 30, 1989, an amount equal to 3% of the taxpayer's net income for the taxable year.

(4) (Blank).

(5) (Blank).

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

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

(8) In the case of a corporation, for taxable years beginning after June 30, 1989, an amount equal to 4.8% of the taxpayer's net income for the taxable year.

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

(d) Additional Personal Property Tax Replacement Income

Tax Rates. The personal property tax replacement income tax imposed by this subsection and subsection (c) of this Section in the case of a corporation, other than a Subchapter S corporation and except as adjusted by subsection (d-1), shall be an additional amount equal to 2.85% of such taxpayer's net income for the taxable year, except that beginning on January 1, 1981, and thereafter, the rate of 2.85% specified in this subsection shall be reduced to 2.5%, and in the case of a partnership, trust or a Subchapter S corporation shall be an additional amount equal to 1.5% of such taxpayer's net income for the taxable year.

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

(1) For the purposes of subsection (d-1), in no event

shall the sum of the rates of tax imposed by subsections (b) and (d) be reduced below the rate at which the sum of:

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

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

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

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

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

(1) A taxpayer shall be allowed a credit equal to .5% of the basis of qualified property placed in service during the taxable year, provided such property is placed in service on or after July 1, 1984. There shall be allowed an additional credit equal to .5% of the basis of qualified property placed in service during the taxable year, provided such property is placed in service on or after



July 1, 1986, and the taxpayer's base employment within Illinois has increased by 1% or more over the preceding year as determined by the taxpayer's employment records filed with the Illinois Department of Employment Security. Taxpayers who are new to Illinois shall be deemed to have met the 1% growth in base employment for the first year in which they file employment records with the Illinois Department of Employment Security. The provisions added to this Section by Public Act 85-1200 (and restored by Public Act 87-895) shall be construed as declaratory of existing law and not as a new enactment. If, in any year, the increase in base employment within Illinois over the preceding year is less than 1%, the additional credit shall be limited to that percentage times a fraction, the numerator of which is .5% and the denominator of which is 1%, but shall not exceed .5%. The investment credit shall not be allowed to the extent that it would reduce a taxpayer's liability in any tax year below zero, nor may any credit for qualified property be allowed for any year other than the year in which the property was placed in service in Illinois. For tax years ending on or after December 31, 1987, and on or before December 31, 1988, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit years if the taxpayer (i) makes investments which cause the creation of a minimum of 2,000 full-time equivalent jobs in Illinois, (ii) is located in an enterprise zone established pursuant to the Illinois Enterprise Zone Act and (iii) is certified by the Department of Commerce and Community Affairs (now Department of Commerce and Economic Opportunity) as complying with the requirements specified in clause (i) and

(ii) by July 1, 1986. The Department of Commerce and Community Affairs (now Department of Commerce and Economic Opportunity) shall notify the Department of Revenue of all such certifications immediately. For tax years ending after December 31, 1988, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit years. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, earlier credit shall be applied first.

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

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

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

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

(D) is used in Illinois by a taxpayer who is primarily engaged in manufacturing, or in mining coal or fluorite, or in retailing, or was placed in service on or after July 1, 2006 in a River Edge Redevelopment Zone established pursuant to the River Edge

Redevelopment Zone Act; and

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

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

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

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

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

(7) If during any taxable year, any property ceases to be qualified property in the hands of the taxpayer within 48 months after being placed in service, or the situs of any qualified property is moved outside Illinois within 48 months after being placed in service, the Personal Property Tax Replacement Income Tax for such taxable year shall be increased. Such increase shall be determined by (i) recomputing the investment credit which would have been allowed for the year in which credit for such property was

originally allowed by eliminating such property from such computation and, (ii) subtracting such recomputed credit from the amount of credit previously allowed. For the purposes of this paragraph (7), a reduction of the basis of qualified property resulting from a redetermination of the purchase price shall be deemed a disposition of qualified property to the extent of such reduction.

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

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

For taxable years ending on or after December 31, 2000, a partner that qualifies its partnership for a subtraction under subparagraph (I) of paragraph (2) of subsection (d) of Section 203 or a shareholder that qualifies a Subchapter S corporation for a subtraction under subparagraph (S) of paragraph (2) of subsection (b) of Section 203 shall be allowed a credit under this subsection (e) equal to its share of the credit earned under this subsection (e) during

the taxable year by the partnership or Subchapter S corporation, determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code. This paragraph is exempt from the provisions of Section 250.

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

(1) A taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for investment in qualified property which is placed in service in an Enterprise Zone created pursuant to the Illinois Enterprise Zone Act or, for property placed in service on or after July 1, 2006, a River Edge Redevelopment Zone established pursuant to the River Edge Redevelopment Zone Act. For partners, shareholders of Subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, there shall be allowed a credit under this subsection (f) to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code. The credit shall be .5% of the basis for such property. The credit shall be available only in the taxable year in which the property is placed in service in the Enterprise Zone or River Edge Redevelopment Zone and shall not be allowed to the extent that it would reduce a taxpayer's liability for the tax imposed by subsections (a) and (b) of this Section to below zero. For tax years ending on or after December 31, 1985, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years

following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, the credit accruing first in time shall be applied first.

(2) The term qualified property means property which:

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

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

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

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

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

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

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

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

(6) If during any taxable year, any property ceases to be qualified property in the hands of the taxpayer within 48 months after being placed in service, or the situs of any qualified property is moved outside the Enterprise Zone

or River Edge Redevelopment Zone within 48 months after being placed in service, the tax imposed under subsections (a) and (b) of this Section for such taxable year shall be increased. Such increase shall be determined by (i) recomputing the investment credit which would have been allowed for the year in which credit for such property was originally allowed by eliminating such property from such computation, and (ii) subtracting such recomputed credit from the amount of credit previously allowed. For the purposes of this paragraph (6), a reduction of the basis of qualified property resulting from a redetermination of the purchase price shall be deemed a disposition of qualified property to the extent of such reduction.

(7) There shall be allowed an additional credit equal to 0.5% of the basis of qualified property placed in service during the taxable year in a River Edge Redevelopment Zone, provided such property is placed in service on or after July 1, 2006, and the taxpayer's base employment within Illinois has increased by 1% or more over the preceding year as determined by the taxpayer's employment records filed with the Illinois Department of Employment Security. Taxpayers who are new to Illinois shall be deemed to have met the 1% growth in base employment for the first year in which they file employment records with the Illinois Department of Employment Security. If, in any year, the increase in base employment within Illinois over the preceding year is less than 1%, the additional credit shall be limited to that percentage times a fraction, the numerator of which is 0.5% and the denominator of which is 1%, but shall not exceed 0.5%.

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

(1) A taxpayer conducting a trade or business in an enterprise zone or a High Impact Business designated by the Department of Commerce and Economic Opportunity or for taxable years ending on or after December 31, 2006, in a

River Edge Redevelopment Zone conducting a trade or business in a federally designated Foreign Trade Zone or Sub-Zone shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section in the amount of \$500 per eligible employee hired to work in the zone during the taxable year.

(2) To qualify for the credit:

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

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

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

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

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

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

(C) Employed in the enterprise zone, River Edge



Redevelopment Zone, or Foreign Trade Zone or Sub-Zone.

An employee is employed in an enterprise zone or federally designated Foreign Trade Zone or Sub-Zone if his services are rendered there or it is the base of operations for the services performed.

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

(4) For tax years ending on or after December 31, 1985 and prior to December 31, 1988, the credit shall be allowed for the tax year in which the eligible employees are hired. For tax years ending on or after December 31, 1988, the credit shall be allowed for the tax year immediately following the tax year in which the eligible employees are hired. If the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, earlier credit shall be applied first.

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

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

(h) Investment credit; High Impact Business.

(1) Subject to subsections (b) and (b-5) of Section 5.5 of the Illinois Enterprise Zone Act, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for investment in qualified property which is placed in service by a Department of Commerce and Economic Opportunity designated High Impact Business. The credit shall be .5% of the basis for such property. The credit shall not be available (i) until the

minimum investments in qualified property set forth in subdivision (a)(3)(A) of Section 5.5 of the Illinois Enterprise Zone Act have been satisfied or (ii) until the time authorized in subsection (b-5) of the Illinois Enterprise Zone Act for entities designated as High Impact Businesses under subdivisions (a)(3)(B), (a)(3)(C), and (a)(3)(D) of Section 5.5 of the Illinois Enterprise Zone Act, and shall not be allowed to the extent that it would reduce a taxpayer's liability for the tax imposed by subsections (a) and (b) of this Section to below zero. The credit applicable to such investments shall be taken in the taxable year in which such investments have been completed. The credit for additional investments beyond the minimum investment by a designated high impact business authorized under subdivision (a)(3)(A) of Section 5.5 of the Illinois Enterprise Zone Act shall be available only in the taxable year in which the property is placed in service and shall not be allowed to the extent that it would reduce a taxpayer's liability for the tax imposed by subsections (a) and (b) of this Section to below zero. For tax years ending on or after December 31, 1987, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, the credit accruing first in time shall be applied first.

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

(2) The term qualified property means property which:

(A) is tangible, whether new or used, including

buildings and structural components of buildings;

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

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

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

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

(4) If the basis of the property for federal income tax depreciation purposes is increased after it has been placed in service in a federally designated Foreign Trade Zone or Sub-Zone located in Illinois by the taxpayer, the amount of such increase shall be deemed property placed in service on the date of such increase in basis.

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

(6) If during any taxable year ending on or before December 31, 1996, any property ceases to be qualified property in the hands of the taxpayer within 48 months after being placed in service, or the situs of any qualified property is moved outside Illinois within 48 months after being placed in service, the tax imposed under subsections (a) and (b) of this Section for such taxable year shall be increased. Such increase shall be determined by (i) recomputing the investment credit which would have been allowed for the year in which credit for such property was originally allowed by eliminating such property from such computation, and (ii) subtracting such recomputed credit from the amount of credit previously allowed. For the purposes of this paragraph (6), a reduction of the

basis of qualified property resulting from a redetermination of the purchase price shall be deemed a disposition of qualified property to the extent of such reduction.

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

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

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

earliest credit arising under this subsection shall be applied first.

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

(j) Training expense credit. Beginning with tax years ending on or after December 31, 1986 and prior to December 31, 2003, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) under this Section for all amounts paid or accrued, on behalf of all persons employed by the taxpayer in Illinois or Illinois residents employed outside of Illinois by a taxpayer, for educational or vocational training in semi-technical or technical fields or semi-skilled or skilled fields, which were deducted from gross income in the computation of taxable income. The credit against the tax imposed by subsections (a) and (b) shall be 1.6% of such training expenses. For partners, shareholders of subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, there shall be allowed a credit under this subsection (j) to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code.

Any credit allowed under this subsection which is unused in the year the credit is earned may be carried forward to each of the 5 taxable years following the year for which the credit is first computed until it is used. This credit shall be applied first to the earliest year for which there is a liability. If

there is a credit under this subsection from more than one tax year that is available to offset a liability the earliest credit arising under this subsection shall be applied first. No carryforward credit may be claimed in any tax year ending on or after December 31, 2003.

(k) Research and development credit.

For tax years ending after July 1, 1990 and prior to December 31, 2003, and beginning again for tax years ending on or after December 31, 2004, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for increasing research activities in this State. The credit allowed against the tax imposed by subsections (a) and (b) shall be equal to 6 1/2% of the qualifying expenditures for increasing research activities in this State. For partners, shareholders of subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, there shall be allowed a credit under this subsection to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code.

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

Any credit in excess of the tax liability for the taxable

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

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

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

(1) Environmental Remediation Tax Credit.

(i) For tax years ending after December 31, 1997 and on or before December 31, 2001, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for certain amounts paid for unreimbursed eligible remediation costs, as specified in this subsection. For purposes of this Section, "unreimbursed eligible remediation costs" means costs approved by the Illinois Environmental Protection Agency ("Agency") under Section 58.14 of the Environmental Protection Act that were paid in performing environmental remediation at a site for which a No Further Remediation Letter was issued by the Agency and recorded under Section 58.10 of the Environmental Protection Act. The credit must be claimed

for the taxable year in which Agency approval of the eligible remediation costs is granted. The credit is not available to any taxpayer if the taxpayer or any related party caused or contributed to, in any material respect, a release of regulated substances on, in, or under the site that was identified and addressed by the remedial action pursuant to the Site Remediation Program of the Environmental Protection Act. After the Pollution Control Board rules are adopted pursuant to the Illinois Administrative Procedure Act for the administration and enforcement of Section 58.9 of the Environmental Protection Act, determinations as to credit availability for purposes of this Section shall be made consistent with those rules. For purposes of this Section, "taxpayer" includes a person whose tax attributes the taxpayer has succeeded to under Section 381 of the Internal Revenue Code and "related party" includes the persons disallowed a deduction for losses by paragraphs (b), (c), and (f)(1) of Section 267 of the Internal Revenue Code by virtue of being a related taxpayer, as well as any of its partners. The credit allowed against the tax imposed by subsections (a) and (b) shall be equal to 25% of the unreimbursed eligible remediation costs in excess of \$100,000 per site, except that the \$100,000 threshold shall not apply to any site contained in an enterprise zone as determined by the Department of Commerce and Community Affairs (now Department of Commerce and Economic Opportunity). The total credit allowed shall not exceed \$40,000 per year with a maximum total of \$150,000 per site. For partners and shareholders of subchapter S corporations, there shall be allowed a credit under this subsection to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code.

(ii) A credit allowed under this subsection that is unused in the year the credit is earned may be carried



forward to each of the 5 taxable years following the year for which the credit is first earned until it is used. The term "unused credit" does not include any amounts of unreimbursed eligible remediation costs in excess of the maximum credit per site authorized under paragraph (i). This credit shall be applied first to the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year that is available to offset a liability, the earliest credit arising under this subsection shall be applied first. A credit allowed under this subsection may be sold to a buyer as part of a sale of all or part of the remediation site for which the credit was granted. The purchaser of a remediation site and the tax credit shall succeed to the unused credit and remaining carry-forward period of the seller. To perfect the transfer, the assignor shall record the transfer in the chain of title for the site and provide written notice to the Director of the Illinois Department of Revenue of the assignor's intent to sell the remediation site and the amount of the tax credit to be transferred as a portion of the sale. In no event may a credit be transferred to any taxpayer if the taxpayer or a related party would not be eligible under the provisions of subsection (i).

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

(m) Education expense credit. Beginning with tax years ending after December 31, 1999, a taxpayer who is the custodian of one or more qualifying pupils shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for qualified education expenses incurred on behalf of the qualifying pupils. The credit shall be equal to 25% of qualified education expenses, but in no event may the total credit under this subsection claimed by a family that is the custodian of qualifying pupils exceed \$500. In no event shall a credit under this subsection reduce the taxpayer's liability

under this Act to less than zero. This subsection is exempt from the provisions of Section 250 of this Act.

For purposes of this subsection:

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

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

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

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

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

(i) For tax years ending on or after December 31, 2006, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for certain amounts paid for unreimbursed eligible remediation costs, as specified in this subsection. For purposes of this Section, "unreimbursed eligible remediation costs" means costs approved by the Illinois Environmental Protection Agency ("Agency") under Section 58.14 of the Environmental Protection Act that were paid in performing environmental remediation at a site within a River Edge

Redevelopment Zone for which a No Further Remediation Letter was issued by the Agency and recorded under Section 58.10 of the Environmental Protection Act. The credit must be claimed for the taxable year in which Agency approval of the eligible remediation costs is granted. The credit is not available to any taxpayer if the taxpayer or any related party caused or contributed to, in any material respect, a release of regulated substances on, in, or under the site that was identified and addressed by the remedial action pursuant to the Site Remediation Program of the Environmental Protection Act. Determinations as to credit availability for purposes of this Section shall be made consistent with rules adopted by the Pollution Control Board pursuant to the Illinois Administrative Procedure Act for the administration and enforcement of Section 58.9 of the Environmental Protection Act. For purposes of this Section, "taxpayer" includes a person whose tax attributes the taxpayer has succeeded to under Section 381 of the Internal Revenue Code and "related party" includes the persons disallowed a deduction for losses by paragraphs (b), (c), and (f) (1) of Section 267 of the Internal Revenue Code by virtue of being a related taxpayer, as well as any of its partners. The credit allowed against the tax imposed by subsections (a) and (b) shall be equal to 25% of the unreimbursed eligible remediation costs in excess of \$100,000 per site.

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

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

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

(iv) This subsection is exempt from the provisions of Section 250.

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

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

Sec. 203. Base income defined.

(a) Individuals.

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

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

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

stock dividends of qualified public utilities described in Section 305(e) of the Internal Revenue Code;

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

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

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

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

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

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

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

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

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

whom the interest was paid, accrued, or incurred.

This paragraph shall not apply to the following:

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

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

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

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

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

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

alternative method of apportionment under Section 304(f).

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

(D-18) For taxable years ending on or after December 31, 2004, an amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(a)(2)(D-17) of this Act. As used in this subparagraph, the term "intangible expenses and costs"



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

This paragraph shall not apply to the following:

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

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

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

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

or

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

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

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

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

(E) For taxable years ending before December 31, 2001, any amount included in such total in respect of any compensation (including but not limited to any compensation paid or accrued to a serviceman while a prisoner of war or missing in action) paid to a resident by reason of being on active duty in the Armed

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

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

(G) The valuation limitation amount;

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

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

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

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

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

(M) With the exception of any amounts subtracted under subparagraph (N), an amount equal to the sum of all amounts disallowed as deductions by (i) Sections 171(a) (2), and 265(2) of the Internal Revenue Code of 1954, as now or hereafter amended, and all amounts of expenses allocable to interest and disallowed as deductions by Section 265(1) of the Internal Revenue

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

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

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

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

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

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

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

contribution is accepted by the account administrator as provided in that Act;

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

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

(V) Beginning with tax years ending on or after December 31, 1995 and ending with tax years ending on or before December 31, 2004, an amount equal to the amount paid by a taxpayer who is a self-employed taxpayer, a partner of a partnership, or a shareholder in a Subchapter S corporation for health insurance or long-term care insurance for that taxpayer or that taxpayer's spouse or dependents, to the extent that the amount paid for that health insurance or long-term care insurance may be deducted under Section 213 of the Internal Revenue Code of 1986, has not been deducted on the federal income tax return of the taxpayer, and does not exceed the taxable income attributable to that taxpayer's income, self-employment income, or Subchapter S corporation income; except that no deduction shall be allowed under this item (V) if the taxpayer is eligible to participate in any health insurance or long-term care insurance plan of an employer of the taxpayer or the taxpayer's spouse. The amount of the health insurance and long-term care insurance subtracted under this item (V) shall be

determined by multiplying total health insurance and long-term care insurance premiums paid by the taxpayer times a number that represents the fractional percentage of eligible medical expenses under Section 213 of the Internal Revenue Code of 1986 not actually deducted on the taxpayer's federal income tax return;

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

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

persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim. The amount of and the eligibility for any public assistance, benefit, or similar entitlement is not affected by the inclusion of items (i) and (ii) of this paragraph in gross income for federal income tax purposes. This paragraph is exempt from the provisions of Section 250;

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

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

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property



for which the bonus depreciation deduction (30% of the adjusted basis of the qualified property) was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code, but not including the bonus depreciation deduction; and

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

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

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

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

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

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

allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-18), 203(b)(2)(E-14), 203(c)(2)(G-13), or 203(d)(2)(D-8), but not to exceed the amount of that addition modification;

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

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

(b) Corporations.

(1) In general. In the case of a corporation, base income means an amount equal to the taxpayer's taxable

income for the taxable year as modified by paragraph (2).

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

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

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

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

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

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

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

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

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

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

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

(E-11) If the taxpayer reports a capital gain or loss on the taxpayer's federal income tax return for the taxable year based on a sale or transfer of property for which the taxpayer was required in any taxable year to make an addition modification under

subparagraph (E-10), then an amount equal to the aggregate amount of the deductions taken in all taxable years under subparagraph (T) with respect to that property.

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

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

This paragraph shall not apply to the following:

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

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

person if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

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

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

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

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

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

under Section 404 of this Act;

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

patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

This paragraph shall not apply to the following:

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

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

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

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

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



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

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

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

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

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

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

(J) An amount equal to all amounts included in such

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

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

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

(M) For any taxpayer that is a financial organization within the meaning of Section 304(c) of this Act, an amount included in such total as interest income from a loan or loans made by such taxpayer to a borrower, to the extent that such a loan is secured by property which is eligible for the Enterprise Zone Investment Credit or the River Edge Redevelopment Zone Investment Credit. To determine the portion of a loan or loans that is secured by property eligible for a

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

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

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

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

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

clause (i) that would but for the provisions of Section 1504 (b) (3) of the Internal Revenue Code be treated as a member of the affiliated group which includes the dividend recipient, exceed the amount of the modification provided under subparagraph (G) of paragraph (2) of this subsection (b) which is related to such dividends;

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

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

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

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

(T) For taxable years 2001 and thereafter, for the

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

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

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

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

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

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

(V) The amount of: (i) any interest income (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with

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

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

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

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

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

(c) Trusts and estates.

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

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

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

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

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

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

(E) For taxable years in which a net operating loss carryback or carryforward from a taxable year ending prior to December 31, 1986 is an element of taxable income under paragraph (1) of subsection (e) or



subparagraph (E) of paragraph (2) of subsection (e), the amount by which addition modifications other than those provided by this subparagraph (E) exceeded subtraction modifications in such taxable year, with the following limitations applied in the order that they are listed:

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

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

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

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

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

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

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

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

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

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

taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred.

This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

Internal Revenue Code and regulations adopted pursuant thereto;

(I) The valuation limitation amount;

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

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

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

(M) An amount equal to those dividends included in such total which were paid by a corporation which conducts business operations in an Enterprise Zone or zones created under the Illinois Enterprise Zone Act or a River Edge Redevelopment Zone or zones created under the River Edge Redevelopment Zone Act and

conducts substantially all of its operations in an Enterprise Zone or Zones or a River Edge Redevelopment Zone or zones. This subparagraph (M) is exempt from the provisions of Section 250;

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

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

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

(Q) For taxable year 1999 and thereafter, an amount equal to the amount of any (i) distributions, to the extent includible in gross income for federal income tax purposes, made to the taxpayer because of his or her status as a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim and (ii) items of income, to the extent includible in gross income for federal income tax purposes, attributable to, derived from or in any way related to assets stolen from, hidden from, or otherwise lost to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime immediately prior to, during, and immediately after World War II, including, but not limited to, interest on the proceeds receivable



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

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

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

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

The aggregate amount deducted under this

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

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

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

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

(U) An amount equal to the interest income taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with a foreign person who would be a

member of the taxpayer's unitary business group but for the fact the foreign person's business activity outside the United States is 80% or more of that person's total business activity, but not to exceed the addition modification required to be made for the same taxable year under Section 203(c)(2)(G-12) for interest paid, accrued, or incurred, directly or indirectly, to the same foreign person; and

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

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

(d) Partnerships.

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

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

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

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

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

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

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

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

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

(D-7) For taxable years ending on or after December 31, 2004, an amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or

indirectly, to a foreign person who would be a member of the same unitary business group but for the fact the foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred.

This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

This paragraph shall not apply to the following:

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

(ii) any item of intangible expense or cost

paid, accrued, or incurred, directly or indirectly, if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

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

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

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

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

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

(E) The valuation limitation amount;



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

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

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

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

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

Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;

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

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

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

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

(O) For taxable years 2001 and thereafter, for the taxable year in which the bonus depreciation deduction (30% of the adjusted basis of the qualified property) is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal

Revenue Code and for each applicable taxable year thereafter, an amount equal to "x", where:

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

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

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

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

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

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

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

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

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

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

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

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

(A) Certain life insurance companies. In the case

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

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

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

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

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

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

(G) Subchapter S corporations. In the case of: (i)

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

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

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

computed for the business under Section 304 of this Act for the taxable year and for the 2 immediately preceding taxable years.

(f) Valuation limitation amount.

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

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

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

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

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

(B) If the fair market value of property referred to in paragraph (1) was not readily ascertainable on August 1, 1969, the pre-August 1, 1969 appreciation amount for such property is that amount which bears the



same ratio to the total gain reported in respect of the property for federal income tax purposes for the taxable year, as the number of full calendar months in that part of the taxpayer's holding period for the property ending July 31, 1969 bears to the number of full calendar months in the taxpayer's entire holding period for the property.

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

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

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

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

Section 90-20. The Use Tax Act is amended by changing Section 12 as follows:

(35 ILCS 105/12) (from Ch. 120, par. 439.12)

Sec. 12. Applicability of Retailers' Occupation Tax Act and Uniform Penalty and Interest Act. All of the provisions of Sections 1d, 1e, 1f, 1i, 1j, 1j.1, 1k, 1m, 1n, 1o, 2-54, 2a,

2b, 2c, 3, 4 (except that the time limitation provisions shall run from the date when the tax is due rather than from the date when gross receipts are received), 5 (except that the time limitation provisions on the issuance of notices of tax liability shall run from the date when the tax is due rather than from the date when gross receipts are received and except that in the case of a failure to file a return required by this Act, no notice of tax liability shall be issued on and after each July 1 and January 1 covering tax due with that return during any month or period more than 6 years before that July 1 or January 1, respectively), 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5j, 5k, 5l, 7, 8, 9, 10, 11 and 12 of the Retailers' Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act, which are not inconsistent with this Act, shall apply, as far as practicable, to the subject matter of this Act to the same extent as if such provisions were included herein.

(Source: P.A. 90-42, eff. 1-1-98; 90-792, eff. 1-1-99.)

Section 90-25. The Service Use Tax Act is amended by changing Section 12 as follows:

(35 ILCS 110/12) (from Ch. 120, par. 439.42)

Sec. 12. Applicability of Retailers' Occupation Tax Act and Uniform Penalty and Interest Act. All of the provisions of Sections 1d, 1e, 1f, 1i, 1j, 1j.1, 1k, 1m, 1n, 1o, 2-54, 2a, 2b, 2c, 3 (except as to the disposition by the Department of the money collected under this Act), 4 (except that the time limitation provisions shall run from the date when gross receipts are received), 5 (except that the time limitation provisions on the issuance of notices of tax liability shall run from the date when the tax is due rather than from the date when gross receipts are received and except that in the case of a failure to file a return required by this Act, no notice of tax liability shall be issued on and after July 1 and January 1 covering tax due with that return during any month or period more than 6 years before that July 1 or January 1,

respectively), 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5j, 5k, 5l, 7, 8, 9, 10, 11 and 12 of the Retailers' Occupation Tax Act which are not inconsistent with this Act, and Section 3-7 of the Uniform Penalty and Interest Act, shall apply, as far as practicable, to the subject matter of this Act to the same extent as if such provisions were included herein.

(Source: P.A. 90-42, eff. 1-1-98; 90-792, eff. 1-1-99.)

Section 90-30. The Service Occupation Tax Act is amended by changing Section 12 as follows:

(35 ILCS 115/12) (from Ch. 120, par. 439.112)

Sec. 12. All of the provisions of Sections 1d, 1e, 1f, 1i, 1j, 1j.1, 1k, 1m, 1n, 1o, 2-54, 2a, 2b, 2c, 3 (except as to the disposition by the Department of the tax collected under this Act), 4 (except that the time limitation provisions shall run from the date when the tax is due rather than from the date when gross receipts are received), 5 (except that the time limitation provisions on the issuance of notices of tax liability shall run from the date when the tax is due rather than from the date when gross receipts are received), 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5j, 5k, 5l, 7, 8, 9, 10, 11 and 12 of the "Retailers' Occupation Tax Act" which are not inconsistent with this Act, and Section 3-7 of the Uniform Penalty and Interest Act shall apply, as far as practicable, to the subject matter of this Act to the same extent as if such provisions were included herein.

(Source: P.A. 90-42, eff. 1-1-98; 90-792, eff. 1-1-99.)

Section 90-35. The Retailers' Occupation Tax Act is amended by adding Section 2-54 as follows:

(35 ILCS 120/2-54 new)

Sec. 2-54. Building materials exemption; River Edge Redevelopment Zones. Each retailer that makes a qualified sale of building materials to be incorporated into real estate

within a River Edge Redevelopment Zone in accordance with the River Edge Redevelopment Zone Act by remodeling, rehabilitating, or new construction may deduct receipts from those sales when calculating the tax imposed by this Act. For purposes of this Section, "qualified sale" means a sale of building materials that will be incorporated into real estate as part of an industrial or commercial project for which a Certificate of Eligibility for Sales Tax Exemption has been issued by the corporate authorities of the municipality in which the building project is located. To document the exemption allowed under this Section, the retailer must obtain from the purchaser a copy of the Certificate of Eligibility for Sales Tax Exemption issued by the corporate authorities of the municipality in which the real estate into which the building materials will be incorporated is located. The Certificate of Eligibility for Sales Tax Exemption must contain all of the following:

(1) A statement that the commercial or industrial project identified in the Certificate meets all the requirements of the jurisdiction in which the project is located.

(2) The location or address of the building project.

(3) The signature of the chief executive officer of the municipality in which the building project is located, or the chief executive officer's delegate.

In addition, the retailer must obtain a certificate from the purchaser that contains all of the following:

(1) A statement that the building materials are being purchased for incorporation into real estate located in a River Edge Redevelopment Zone included in a redevelopment project area in accordance with River Edge Redevelopment Zone Act.

(2) The location or address of the real estate into which the building materials will be incorporated.

(3) The name of the River Edge Redevelopment Zone in which that real estate is located.

(4) A description of the building materials being purchased.

(5) The purchaser's signature and date of purchase.

The provisions of this Section are exempt from Section 2-70.

Section 90-40. The Property Tax Code is amended by changing Section 18-170 as follows:

(35 ILCS 200/18-170)

Sec. 18-170. Enterprise zone and River Edge Redevelopment Zone abatement. In addition to the authority to abate taxes under Section 18-165, any taxing district, upon a majority vote of its governing authority, may order the county clerk to abate any portion of its taxes on property, or any class thereof, located within an Enterprise Zone created under the Illinois Enterprise Zone Act or a River Edge Redevelopment Zone created under the River Edge Redevelopment Zone Act, and upon which either new improvements have been constructed or existing improvements have been renovated or rehabilitated after December 7, 1982. However, any abatement of taxes on any parcel shall not exceed the amount attributable to the construction of the improvements and the renovation or rehabilitation of existing improvements on the parcel. In the case of property within a redevelopment area created under the Tax Increment Allocation Redevelopment Act, the abatement shall not apply unless a business enterprise or individual with regard to new improvements or renovated or rehabilitated improvements has met the requirements of Section 5.4.1 of the Illinois Enterprise Zone Act or under Section 10-5.4.1 of the River Edge Redevelopment Zone Act. If an abatement is discontinued under this Section, a municipality shall notify the county clerk and the board of review or board of appeals of the change in writing not later than July 1 of the assessment year to be first affected by the change. However, within a county economic development project area created under the County Economic

Development Project Area Property Tax Allocation Act, any municipality or county which has adopted tax increment allocation financing under the Tax Increment Allocation Redevelopment Act or the County Economic Development Project Area Tax Increment Allocation Act may abate any portion of its taxes as provided in this Section. Any other taxing district within the county economic development project area may order any portion or all of its taxes abated as provided above if the county or municipality which created the tax increment district has agreed, in writing, to the abatement.

A copy of an abatement order adopted under this Section shall be delivered to the county clerk and to the board of review or board of appeals not later than July 1 of the assessment year to be first affected by the order. If it is delivered on or after that date, it will first affect the taxes extended on the assessment of the following year. The board of review or board of appeals shall, each time the assessment books are delivered to the county clerk, also deliver a list of parcels affected by an abatement and the assessed value attributable to new improvements or to the renovation or rehabilitation of existing improvements.

(Source: P.A. 89-126, eff. 7-11-95; 89-671, eff. 8-14-96; 90-258, eff. 7-30-97.)

Section 90-45. The Environmental Protection Act is amended by changing Sections 58.13 and 58.14 as follows:

(415 ILCS 5/58.13)

Sec. 58.13. Municipal Brownfields Redevelopment Grant Program.

(a) (1) The Agency shall establish and administer a program of grants, to be known as the Municipal Brownfields Redevelopment Grant Program, to provide municipalities in Illinois with financial assistance to be used for coordination of activities related to brownfields redevelopment, including but not limited to identification

of brownfields sites, including those sites within River Edge Redevelopment Zones, site investigation and determination of remediation objectives and related plans and reports, development of remedial action plans, and implementation of remedial action plans and remedial action completion reports. The plans and reports shall be developed in accordance with Title XVII of this Act.

(2) Grants shall be awarded on a competitive basis subject to availability of funding. Criteria for awarding grants shall include, but shall not be limited to the following:

- (A) problem statement and needs assessment;
- (B) community-based planning and involvement;
- (C) implementation planning; and
- (D) long-term benefits and sustainability.

(3) The Agency may give weight to geographic location to enhance geographic distribution of grants across this State.

(4) Except for grants to municipalities with designated River Edge Redevelopment Zones, grants ~~Grants~~ shall be limited to a maximum of \$240,000, and no municipality shall receive more than this amount under this Section. For grants to municipalities with designated River Edge Redevelopment Zones, grants shall be limited to a maximum of \$2,000,000 and no municipality shall receive more than this amount under this Section.

(5) Grant amounts shall not exceed 70% of the project amount, with the remainder to be provided by the municipality as local matching funds.

(b) The Agency shall have the authority to enter into any contracts or agreements that may be necessary to carry out its duties or responsibilities under this Section. The Agency shall have the authority to adopt rules setting forth procedures and criteria for administering the Municipal Brownfields Redevelopment Grant Program. The rules adopted by the Agency may include but shall not be limited to the following:

- (1) purposes for which grants are available;
- (2) application periods and content of applications;
- (3) procedures and criteria for Agency review of grant applications, grant approvals and denials, and grantee acceptance;
- (4) grant payment schedules;
- (5) grantee responsibilities for work schedules, work plans, reports, and record keeping;
- (6) evaluation of grantee performance, including but not limited to auditing and access to sites and records;
- (7) requirements applicable to contracting and subcontracting by the grantee;
- (8) penalties for noncompliance with grant requirements and conditions, including stop-work orders, termination of grants, and recovery of grant funds;
- (9) indemnification of this State and the Agency by the grantee; and
- (10) manner of compliance with the Local Government Professional Services Selection Act.

(Source: P.A. 92-486, eff. 1-1-02; 92-715, eff. 7-23-02.)

(415 ILCS 5/58.14)

Sec. 58.14. Environmental Remediation Tax Credit review.

(a) Prior to applying for the Environmental Remediation Tax Credit under Section 201 of the Illinois Income Tax Act, Remediation Applicants shall first submit to the Agency an application for review of remediation costs. The Agency shall review the application jointly with the Department of Commerce and Economic Opportunity. The application and review process shall be conducted in accordance with the requirements of this Section and the rules adopted under subsection (g). A preliminary review of the estimated remediation costs for development and implementation of the Remedial Action Plan may be obtained in accordance with subsection (d).

(b) No application for review shall be submitted until a No Further Remediation Letter has been issued by the Agency and



recorded in the chain of title for the site in accordance with Section 58.10. The Agency shall review the application to determine whether the costs submitted are remediation costs, and whether the costs incurred are reasonable. The application shall be on forms prescribed and provided by the Agency. At a minimum, the application shall include the following:

(1) information identifying the Remediation Applicant and the site for which the tax credit is being sought and the date of acceptance of the site into the Site Remediation Program;

(2) a copy of the No Further Remediation Letter with official verification that the letter has been recorded in the chain of title for the site and a demonstration that the site for which the application is submitted is the same site as the one for which the No Further Remediation Letter is issued;

(3) a demonstration that the release of the regulated substances of concern for which the No Further Remediation Letter was issued were not caused or contributed to in any material respect by the Remediation Applicant. After the Pollution Control Board rules are adopted pursuant to the Illinois Administrative Procedure Act for the administration and enforcement of Section 58.9 of the Environmental Protection Act, determinations as to credit availability shall be made consistent with those rules;

(4) an itemization and documentation, including receipts, of the remediation costs incurred;

(5) a demonstration that the costs incurred are remediation costs as defined in this Act and its rules;

(6) a demonstration that the costs submitted for review were incurred by the Remediation Applicant who received the No Further Remediation Letter;

(7) an application fee in the amount set forth in subsection (e) for each site for which review of remediation costs is requested and, if applicable, certification from the Department of Commerce and Economic

Opportunity ~~Community Affairs~~ that the site is located in an enterprise zone;

(8) any other information deemed appropriate by the Agency.

(c) Within 60 days after receipt by the Agency of an application meeting the requirements of subsection (b), the Agency shall issue a letter to the applicant approving, disapproving, or modifying the remediation costs submitted in the application. If the remediation costs are approved as submitted, the Agency's letter shall state the amount of the remediation costs to be applied toward the Environmental Remediation Tax Credit. If an application is disapproved or approved with modification of remediation costs, the Agency's letter shall set forth the reasons for the disapproval or modification and state the amount of the remediation costs, if any, to be applied toward the Environmental Remediation Tax Credit.

If a preliminary review of a budget plan has been obtained under subsection (d), the Remediation Applicant may submit, with the application and supporting documentation under subsection (b), a copy of the Agency's final determination accompanied by a certification that the actual remediation costs incurred for the development and implementation of the Remedial Action Plan are equal to or less than the costs approved in the Agency's final determination on the budget plan. The certification shall be signed by the Remediation Applicant and notarized. Based on that submission, the Agency shall not be required to conduct further review of the costs incurred for development and implementation of the Remedial Action Plan and may approve costs as submitted.

Within 35 days after receipt of an Agency letter disapproving or modifying an application for approval of remediation costs, the Remediation Applicant may appeal the Agency's decision to the Board in the manner provided for the review of permits in Section 40 of this Act.

(d) (1) A Remediation Applicant may obtain a preliminary

review of estimated remediation costs for the development and implementation of the Remedial Action Plan by submitting a budget plan along with the Remedial Action Plan. The budget plan shall be set forth on forms prescribed and provided by the Agency and shall include but shall not be limited to line item estimates of the costs associated with each line item (such as personnel, equipment, and materials) that the Remediation Applicant anticipates will be incurred for the development and implementation of the Remedial Action Plan. The Agency shall review the budget plan along with the Remedial Action Plan to determine whether the estimated costs submitted are remediation costs and whether the costs estimated for the activities are reasonable.

(2) If the Remedial Action Plan is amended by the Remediation Applicant or as a result of Agency action, the corresponding budget plan shall be revised accordingly and resubmitted for Agency review.

(3) The budget plan shall be accompanied by the applicable fee as set forth in subsection (e).

(4) Submittal of a budget plan shall be deemed an automatic 60-day waiver of the Remedial Action Plan review deadlines set forth in this Section and its rules.

(5) Within the applicable period of review, the Agency shall issue a letter to the Remediation Applicant approving, disapproving, or modifying the estimated remediation costs submitted in the budget plan. If a budget plan is disapproved or approved with modification of estimated remediation costs, the Agency's letter shall set forth the reasons for the disapproval or modification.

(6) Within 35 days after receipt of an Agency letter disapproving or modifying a budget plan, the Remediation Applicant may appeal the Agency's decision to the Board in the manner provided for the review of permits in Section 40 of this Act.

(e) The fees for reviews conducted under this Section are

in addition to any other fees or payments for Agency services rendered pursuant to the Site Remediation Program and shall be as follows:

(1) The fee for an application for review of remediation costs shall be \$1,000 for each site reviewed.

(2) The fee for the review of the budget plan submitted under subsection (d) shall be \$500 for each site reviewed.

(3) In the case of a Remediation Applicant submitting for review total remediation costs ~~of \$100,000 or less~~ for a site located within a River Edge Redevelopment Zone ~~an enterprise zone~~ (as set forth in paragraph (i) of subsection (n) ~~(1)~~ of Section 201 of the Illinois Income Tax Act), the fee for an application for review of remediation costs shall be \$250 for each site reviewed. For those sites, there shall be no fee for review of a budget plan under subsection (d).

The application fee shall be made payable to the State of Illinois, for deposit into the Hazardous Waste Fund.

Pursuant to appropriation, the Agency shall use the fees collected under this subsection for development and administration of the review program.

(f) The Agency shall have the authority to enter into any contracts or agreements that may be necessary to carry out its duties and responsibilities under this Section.

(g) Within 6 months after July 21, 1997, the Agency shall propose rules prescribing procedures and standards for its administration of this Section. Within 6 months after receipt of the Agency's proposed rules, the Board shall adopt on second notice, pursuant to Sections 27 and 28 of this Act and the Illinois Administrative Procedure Act, rules that are consistent with this Section. Prior to the effective date of rules adopted under this Section, the Agency may conduct reviews of applications under this Section and the Agency is further authorized to distribute guidance documents on costs that are eligible or ineligible as remediation costs.

(Source: P.A. 92-574, eff. 6-26-02; revised 12-6-03.)

ARTICLE 900.

SEVERABILITY; EFFECTIVE DATE

Section 900-5. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 900-10. Effective date. This Act takes effect upon becoming law.