



## 94TH GENERAL ASSEMBLY

## State of Illinois

2005 and 2006

HB0750

Introduced 2/2/2005, by Rep. David E. Miller

## SYNOPSIS AS INTRODUCED:

See Index

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

LRB094 08941 BDD 39161 b

FISCAL NOTE ACT  
MAY APPLYHOUSING  
AFFORDABILITY  
IMPACT NOTE ACT  
MAY APPLY

1 AN ACT concerning education.

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

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

6 (30 ILCS 105/5.640 new)

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

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

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

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

13 (b) As used in this Section:

14 "Department" means the Department of Revenue.

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

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

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

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

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

1 minimum property tax relief grant that the district receives.

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

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

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

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

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

1 ECI published for the prior fiscal year.

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

17 Section 10. The Illinois Income Tax Act is amended by  
18 changing Sections 201 and 203 and by adding Section 247 as  
19 follows:

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

21 Sec. 201. Tax Imposed.

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

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

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

1 year.

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

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

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

17 (5) (Blank).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 shall be irrevocable.

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

16 (f) Investment credit; Enterprise Zone.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28           (2) To qualify for the credit:

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

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

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

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

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

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

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

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

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

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

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

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

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

12          (h) Investment credit; High Impact Business.

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (k) Research and development credit.

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

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

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

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

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

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

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

7 (1) Environmental Remediation Tax Credit.

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

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

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

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

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

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

23 For purposes of this subsection:

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

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

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



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

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

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

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

14 Sec. 203. Base income defined.

15 (a) Individuals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

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

5 This paragraph shall not apply to the following:

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

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

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

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

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

1 304(f);

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

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

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

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

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

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

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



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

9 (G) The valuation limitation amount;

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

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

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

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

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

1 Revenue Code;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (b) Corporations.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

36 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

12 This paragraph shall not apply to the following:

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

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

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

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

36 (iii) any item of intangible expense or cost

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (c) Trusts and estates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 This paragraph shall not apply to the following:

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

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

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

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

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

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



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

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

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

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

17 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

36 (I) The valuation limitation amount;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 indirectly, to the same foreign person; and

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

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

22 (d) Partnerships.

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

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

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

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



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

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

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

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

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

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

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

9 This paragraph shall not apply to the following:

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

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

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

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

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

1 not federal or Illinois tax avoidance; or

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

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

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

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

21 This paragraph shall not apply to the following:

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

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

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

1 not a related member, and

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

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

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

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

29 (E) The valuation limitation amount;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29          (f) Valuation limitation amount.

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

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

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

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

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

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

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

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

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

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

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

17 (35 ILCS 5/247 new)

18 Sec. 247. Family Tax Credit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

1 "Department" means the Department of Revenue.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 "Department" means the Department of Revenue.

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

11 "Sale of service" means any transaction except:

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

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

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

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



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

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

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

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

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

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

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

1 destination outside Illinois, for use outside Illinois.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 "Department" means the Department of Revenue.

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

9 "Sale of Service" means any transaction except:

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Retailers' Occupation Tax Act.

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

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

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

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

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

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

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

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

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

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

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

16 (3) Marinas (7131901).

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

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

20 (6) Personal and household goods.

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

22 (8) Dating services (8129902).

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

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

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

28 (12) Consumer goods rental (5322).

29 (13) General goods rental (5323).

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

31 (15) Investigation services (561611).

32 (16) Bail bonding (8129901).

33 (17) Telephone answering services (561421).

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

35 (19) Linen supply (812331).

36 (20) Industrial launderers (812332).

1           (21) Interior design services (54141).

2           (22) Computer systems design and related services  
3           (5415).

4           (23) Credit bureaus (56145).

5           (24) Collection agencies (56144).

6           (25) Other business services, including copy shops  
7           (561439).

8           (26) Automotive repair and maintenance (8111).

9           (27) Parking lots and garages (81293).

10          (28) Motor vehicle towing (48841).

11          (29) Racetracks (711212).

12          (30) Amusement parks and arcades (7131).

13          (31) Bowling Centers (71395).

14          (32) Cable and other program distribution (51322).

15          (33) Circuses (7111901).

16          (34) Coin operated amusement devices, except slots  
17          (7139905).

18          (35) Golf courses and country clubs (71391).

19          (36) Fitness and recreational sports centers (711211).

20          (37) Sports teams and clubs (711211).

21          (38) Performing arts companies (7111).

22          (39) Miniature golf courses (7139904).

23          (40) Scenic and sightseeing transportation (487).

24          (41) Limousine services (48532).

25          (42)        Unscheduled        chartered        passenger        air  
26          transportation (481211).

27          (43) Motion picture theaters, except drive-in theaters  
28          (512131).

29          (44) Drive-in motion picture theaters (512132).

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

36           Nonreusable tangible personal property that is used by



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

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

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

1 open to the public.

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

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

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

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

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

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

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

28 "Department" means the Department of Revenue.

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

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

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

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

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

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

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

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

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

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

25 (1) Farm chemicals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (25) Except as provided in item (25-5) of this Section, a  
22 motor vehicle sold in this State to a nonresident even though  
23 the motor vehicle is delivered to the nonresident in this  
24 State, if the motor vehicle is not to be titled in this State,  
25 and if a drive-away permit is issued to the motor vehicle as  
26 provided in Section 3-603 of the Illinois Vehicle Code or if  
27 the nonresident purchaser has vehicle registration plates to  
28 transfer to the motor vehicle upon returning to his or her home  
29 state. The issuance of the drive-away permit or having the  
30 out-of-state registration plates to be transferred is prima  
31 facie evidence that the motor vehicle will not be titled in  
32 this State.

33 (25-5) The exemption under item (25) does not apply if the  
34 state in which the motor vehicle will be titled does not allow  
35 a reciprocal exemption for a motor vehicle sold and delivered  
36 in that state to an Illinois resident but titled in Illinois.

1 The tax collected under this Act on the sale of a motor vehicle  
2 in this State to a resident of another state that does not  
3 allow a reciprocal exemption shall be imposed at a rate equal  
4 to the state's rate of tax on taxable property in the state in  
5 which the purchaser is a resident, except that the tax shall  
6 not exceed the tax that would otherwise be imposed under this  
7 Act. At the time of the sale, the purchaser shall execute a  
8 statement, signed under penalty of perjury, of his or her  
9 intent to title the vehicle in the state in which the purchaser  
10 is a resident within 30 days after the sale and of the fact of  
11 the payment to the State of Illinois of tax in an amount  
12 equivalent to the state's rate of tax on taxable property in  
13 his or her state of residence and shall submit the statement to  
14 the appropriate tax collection agency in his or her state of  
15 residence. In addition, the retailer must retain a signed copy  
16 of the statement in his or her records. Nothing in this item  
17 shall be construed to require the removal of the vehicle from  
18 this state following the filing of an intent to title the  
19 vehicle in the purchaser's state of residence if the purchaser  
20 titles the vehicle in his or her state of residence within 30  
21 days after the date of sale. The tax collected under this Act  
22 in accordance with this item (25-5) shall be proportionately  
23 distributed as if the tax were collected at the 6.25% general  
24 rate imposed under this Act.

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

27 (27) Horses, or interests in horses, registered with and  
28 meeting the requirements of any of the Arabian Horse Club  
29 Registry of America, Appaloosa Horse Club, American Quarter  
30 Horse Association, United States Trotting Association, or  
31 Jockey Club, as appropriate, used for purposes of breeding or  
32 racing for prizes.

33 (28) Computers and communications equipment utilized for  
34 any hospital purpose and equipment used in the diagnosis,  
35 analysis, or treatment of hospital patients sold to a lessor  
36 who leases the equipment, under a lease of one year or longer

1 executed or in effect at the time of the purchase, to a  
2 hospital that has been issued an active tax exemption  
3 identification number by the Department under Section 1g of  
4 this Act.

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

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

20 (31) Beginning with taxable years ending on or after  
21 December 31, 1995 and ending with taxable years ending on or  
22 before December 31, 2004, personal property that is used in the  
23 performance of infrastructure repairs in this State, including  
24 but not limited to municipal roads and streets, access roads,  
25 bridges, sidewalks, waste disposal systems, water and sewer  
26 line extensions, water distribution and purification  
27 facilities, storm water drainage and retention facilities, and  
28 sewage treatment facilities, resulting from a State or  
29 federally declared disaster in Illinois or bordering Illinois  
30 when such repairs are initiated on facilities located in the  
31 declared disaster area within 6 months after the disaster.

32 (32) Beginning July 1, 1999, game or game birds sold at a  
33 "game breeding and hunting preserve area" or an "exotic game  
34 hunting area" as those terms are used in the Wildlife Code or  
35 at a hunting enclosure approved through rules adopted by the  
36 Department of Natural Resources. This paragraph is exempt from

1 the provisions of Section 2-70.

2 (33) A motor vehicle, as that term is defined in Section  
3 1-146 of the Illinois Vehicle Code, that is donated to a  
4 corporation, limited liability company, society, association,  
5 foundation, or institution that is determined by the Department  
6 to be organized and operated exclusively for educational  
7 purposes. For purposes of this exemption, "a corporation,  
8 limited liability company, society, association, foundation,  
9 or institution organized and operated exclusively for  
10 educational purposes" means all tax-supported public schools,  
11 private schools that offer systematic instruction in useful  
12 branches of learning by methods common to public schools and  
13 that compare favorably in their scope and intensity with the  
14 course of study presented in tax-supported schools, and  
15 vocational or technical schools or institutes organized and  
16 operated exclusively to provide a course of study of not less  
17 than 6 weeks duration and designed to prepare individuals to  
18 follow a trade or to pursue a manual, technical, mechanical,  
19 industrial, business, or commercial occupation.

20 (34) Beginning January 1, 2000, personal property,  
21 including food, purchased through fundraising events for the  
22 benefit of a public or private elementary or secondary school,  
23 a group of those schools, or one or more school districts if  
24 the events are sponsored by an entity recognized by the school  
25 district that consists primarily of volunteers and includes  
26 parents and teachers of the school children. This paragraph  
27 does not apply to fundraising events (i) for the benefit of  
28 private home instruction or (ii) for which the fundraising  
29 entity purchases the personal property sold at the events from  
30 another individual or entity that sold the property for the  
31 purpose of resale by the fundraising entity and that profits  
32 from the sale to the fundraising entity. This paragraph is  
33 exempt from the provisions of Section 2-70.

34 (35) Beginning January 1, 2000 and through December 31,  
35 2001, new or used automatic vending machines that prepare and  
36 serve hot food and beverages, including coffee, soup, and other

1 items, and replacement parts for these machines. Beginning  
2 January 1, 2002 and through June 30, 2003, machines and parts  
3 for machines used in commercial, coin-operated amusement and  
4 vending business if a use or occupation tax is paid on the  
5 gross receipts derived from the use of the commercial,  
6 coin-operated amusement and vending machines. This paragraph  
7 is exempt from the provisions of Section 2-70.

8 (35-5) Food for human consumption that is to be consumed  
9 off the premises where it is sold (other than alcoholic  
10 beverages, soft drinks, and food that has been prepared for  
11 immediate consumption) and prescription and nonprescription  
12 medicines, drugs, medical appliances, and insulin, urine  
13 testing materials, syringes, and needles used by diabetics, for  
14 human use, when purchased for use by a person receiving medical  
15 assistance under Article 5 of the Illinois Public Aid Code who  
16 resides in a licensed long-term care facility, as defined in  
17 the Nursing Home Care Act.

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

27 (37) Beginning August 2, 2001, personal property sold to a  
28 lessor who leases the property, under a lease of one year or  
29 longer executed or in effect at the time of the purchase, to a  
30 governmental body that has been issued an active tax exemption  
31 identification number by the Department under Section 1g of  
32 this Act. This paragraph is exempt from the provisions of  
33 Section 2-70.

34 (38) Beginning on January 1, 2002, tangible personal  
35 property purchased from an Illinois retailer by a taxpayer  
36 engaged in centralized purchasing activities in Illinois who

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

20 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,  
21 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;  
22 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.  
23 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff.  
24 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05.)

25 (35 ILCS 120/1d rep.) (from Ch. 120, par. 440d)

26 (35 ILCS 120/1f rep.) (from Ch. 120, par. 440f)

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

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

32 (35 ILCS 200/18-178 new)

33 Sec. 18-178. Education tax abatement. Beginning with taxes



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

31 (35 ILCS 200/18-255)

32 Sec. 18-255. Abstract of assessments and extensions. When  
33 the collector's books are completed, the county clerk shall  
34 make a complete statement of the assessment and extensions, in  
35 conformity to the instructions of the Department. The clerk

1 shall certify the statement to the Department. Beginning with  
2 the 2003 levy year, the Department shall require the statement  
3 to include a separate listing of the amount of any extension  
4 that is abated under Section 18-178 of this Act.

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

6 (35 ILCS 200/20-15)

7 Sec. 20-15. Information on bill or separate statement. The  
8 amount of tax due and rates shown on the tax bill pursuant to  
9 this Section shall be net of any abatement under Section  
10 18-178. There shall be printed on each bill, or on a separate  
11 slip which shall be mailed with the bill:

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

22 (b) a separate statement for each of the taxing  
23 districts of the dollar amount of tax due which is  
24 allocable to a tax levied under the Illinois Pension Code  
25 or to any other tax levied by a municipality or township  
26 for public pension or retirement purposes,

27 (c) the total tax rate,

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

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

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

35 The county treasurer shall ensure that only those taxing

1 districts in which a parcel of property is located shall be  
2 listed on the bill for that property.

3 In all counties the statement shall also provide:

4 (1) the property index number or other suitable  
5 description,

6 (2) the assessment of the property,

7 (3) the equalization factors imposed by the county and  
8 by the Department, and

9 (4) the equalized assessment resulting from the  
10 application of the equalization factors to the basic  
11 assessment.

12 In all counties which do not classify property for purposes  
13 of taxation, for property on which a single family residence is  
14 situated the statement shall also include a statement to  
15 reflect the fair cash value determined for the property. In all  
16 counties which classify property for purposes of taxation in  
17 accordance with Section 4 of Article IX of the Illinois  
18 Constitution, for parcels of residential property in the lowest  
19 assessment classification the statement shall also include a  
20 statement to reflect the fair cash value determined for the  
21 property.

22 In all counties, the statement shall include information  
23 that certain taxpayers may be eligible for the Senior Citizens  
24 and Disabled Persons Property Tax Relief and Pharmaceutical  
25 Assistance Act and that applications are available from the  
26 Illinois Department of Revenue.

27 In counties which use the estimated or accelerated billing  
28 methods, these statements shall only be provided with the final  
29 installment of taxes due, except that the statement under item  
30 (f) shall be included with both installments in those counties  
31 under estimated or accelerated billing methods, the first  
32 billing showing the amount deducted from the first installment,  
33 and the final billing showing the total tax abated for the levy  
34 year under Section 18-178. The provisions of this Section  
35 create a mandatory statutory duty. They are not merely  
36 directory or discretionary. The failure or neglect of the

1 collector to mail the bill, or the failure of the taxpayer to  
2 receive the bill, shall not affect the validity of any tax, or  
3 the liability for the payment of any tax.

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

5 (35 ILCS 200/21-30)

6 Sec. 21-30. Accelerated billing. Except as provided in this  
7 Section, Section 9-260, and Section 21-40, in counties with  
8 3,000,000 or more inhabitants, by January 31 annually,  
9 estimated tax bills setting out the first installment of  
10 property taxes for the preceding year, payable in that year,  
11 shall be prepared and mailed. The first installment of taxes on  
12 the estimated tax bills shall be computed at 50% of the total  
13 of each tax bill before the abatement of taxes under Section  
14 18-178 for the preceding year, less an estimate of one-half of  
15 the minimum school district property tax relief grant for the  
16 current year determined based on information available. If,  
17 prior to the preparation of the estimated tax bills, a  
18 certificate of error has been either approved by a court on or  
19 before November 30 of the preceding year or certified pursuant  
20 to Section 14-15 on or before November 30 of the preceding  
21 year, then the first installment of taxes on the estimated tax  
22 bills shall be computed at 50% of the total taxes before the  
23 abatement of taxes under Section 18-178 for the preceding year  
24 as corrected by the certificate of error, less an estimate of  
25 one-half of the minimum school district property tax relief  
26 grant for the current year determined based on information  
27 available. By June 30 annually, actual tax bills shall be  
28 prepared and mailed. These bills shall set out total taxes due  
29 and the amount of estimated taxes billed in the first  
30 installment, and shall state the balance of taxes due for that  
31 year as represented by the sum derived from subtracting the  
32 amount of the first installment from the total taxes due for  
33 that year.

34 The county board may provide by ordinance, in counties with  
35 3,000,000 or more inhabitants, for taxes to be paid in 4

1 installments. For the levy year for which the ordinance is  
2 first effective and each subsequent year, estimated tax bills  
3 setting out the first, second, and third installment of taxes  
4 for the preceding year, payable in that year, shall be prepared  
5 and mailed not later than the date specified by ordinance. Each  
6 installment on estimated tax bills shall be computed at 25% of  
7 the total of each tax bill for the preceding year. By the date  
8 specified in the ordinance, actual tax bills shall be prepared  
9 and mailed. These bills shall set out total taxes due and the  
10 amount of estimated taxes billed in the first, second, and  
11 third installments and shall state the balance of taxes due for  
12 that year as represented by the sum derived from subtracting  
13 the amount of the estimated installments from the total taxes  
14 due for that year.

15 The county board of any county with less than 3,000,000  
16 inhabitants may, by ordinance or resolution, adopt an  
17 accelerated method of tax billing. The county board may  
18 subsequently rescind the ordinance or resolution and revert to  
19 the method otherwise provided for in this Code.

20 Taxes levied on homestead property in which a member of the  
21 National Guard or reserves of the armed forces of the United  
22 States who was called to active duty on or after August 1,  
23 1990, and who has an ownership interest shall not be deemed  
24 delinquent and no interest shall accrue or be charged as a  
25 penalty on such taxes due and payable in 1991 or 1992 until one  
26 year after that member returns to civilian status.

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

28 Section 40. The Motor Fuel Tax Law is amended by changing  
29 Section 2b as follows:

30 (35 ILCS 505/2b) (from Ch. 120, par. 418b)

31 Sec. 2b. In addition to the tax collection and reporting  
32 responsibilities imposed elsewhere in this Act, a person who is  
33 required to pay the tax imposed by Section 2a of this Act shall  
34 pay the tax to the Department by return showing all fuel

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

33 The return shall be prescribed by the Department and shall  
34 be filed between the 1st and 20th days of each calendar month.  
35 The Department may, in its discretion, combine the returns  
36 filed under this Section, Section 5, and Section 5a of this

1 Act. The return must be accompanied by appropriate  
2 computer-generated magnetic media supporting schedule data in  
3 the format required by the Department, unless, as provided by  
4 rule, the Department grants an exception upon petition of a  
5 taxpayer. ~~If the return is filed timely, the seller shall take~~  
6 ~~a discount of 2% through June 30, 2003 and 1.75% thereafter~~  
7 ~~which is allowed to reimburse the seller for the expenses~~  
8 ~~incurred in keeping records, preparing and filing returns,~~  
9 ~~collecting and remitting the tax and supplying data to the~~  
10 ~~Department on request. The discount, however, shall be~~  
11 ~~applicable only to the amount of payment which accompanies a~~  
12 ~~return that is filed timely in accordance with this Section.~~

13 (Source: P.A. 92-30, eff. 7-1-01; 93-32, eff. 6-20-03.)

14 Section 45. The School Code is amended by changing Section  
15 18-8.05 and by adding Sections 18-8.15 and 18-25 as follows:

16 (105 ILCS 5/18-8.05)

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

20 (A) General Provisions.

21 (1) The provisions of this Section apply to the 1998-1999  
22 and subsequent school years. The system of general State  
23 financial aid provided for in this Section is designed to  
24 assure that, through a combination of State financial aid and  
25 required local resources, the financial support provided each  
26 pupil in Average Daily Attendance equals or exceeds a  
27 prescribed per pupil Foundation Level. This formula approach  
28 imputes a level of per pupil Available Local Resources and  
29 provides for the basis to calculate a per pupil level of  
30 general State financial aid that, when added to Available Local  
31 Resources, equals or exceeds the Foundation Level. The amount  
32 of per pupil general State financial aid for school districts,  
33 in general, varies in inverse relation to Available Local

1 Resources. Per pupil amounts are based upon each school  
2 district's Average Daily Attendance as that term is defined in  
3 this Section.

4 (2) In addition to general State financial aid, school  
5 districts with specified levels or concentrations of pupils  
6 from low income households are eligible to receive supplemental  
7 general State financial aid grants as provided pursuant to  
8 subsection (H). The supplemental State aid grants provided for  
9 school districts under subsection (H) shall be appropriated for  
10 distribution to school districts as part of the same line item  
11 in which the general State financial aid of school districts is  
12 appropriated under this Section.

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

16 (a) Any school district which fails for any given  
17 school year to maintain school as required by law, or to  
18 maintain a recognized school is not eligible to file for  
19 such school year any claim upon the Common School Fund. In  
20 case of nonrecognition of one or more attendance centers in  
21 a school district otherwise operating recognized schools,  
22 the claim of the district shall be reduced in the  
23 proportion which the Average Daily Attendance in the  
24 attendance center or centers bear to the Average Daily  
25 Attendance in the school district. A "recognized school"  
26 means any public school which meets the standards as  
27 established for recognition by the State Board of  
28 Education. A school district or attendance center not  
29 having recognition status at the end of a school term is  
30 entitled to receive State aid payments due upon a legal  
31 claim which was filed while it was recognized.

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

35 (c) If a school district operates a full year school  
36 under Section 10-19.1, the general State aid to the school



1 district shall be determined by the State Board of  
2 Education in accordance with this Section as near as may be  
3 applicable.

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

6 (d) (Blank).

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

11 School districts are not required to exert a minimum  
12 Operating Tax Rate in order to qualify for assistance under  
13 this Section.

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

16 (a) "Average Daily Attendance": A count of pupil  
17 attendance in school, averaged as provided for in  
18 subsection (C) and utilized in deriving per pupil financial  
19 support levels.

20 (b) "Available Local Resources": A computation of  
21 local financial support, calculated on the basis of Average  
22 Daily Attendance and derived as provided pursuant to  
23 subsection (D).

24 (c) "Corporate Personal Property Replacement Taxes":  
25 Funds paid to local school districts pursuant to "An Act in  
26 relation to the abolition of ad valorem personal property  
27 tax and the replacement of revenues lost thereby, and  
28 amending and repealing certain Acts and parts of Acts in  
29 connection therewith", certified August 14, 1979, as  
30 amended (Public Act 81-1st S.S.-1).

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

33 (e) "Operating Tax Rate": All school district property  
34 taxes extended for all purposes, except Bond and Interest,  
35 Summer School, Rent, Capital Improvement, and Vocational  
36 Education Building purposes.

1 (B) Foundation Level.

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

12 (2) For the 1998-1999 school year, the Foundation Level of  
13 support is \$4,225. For the 1999-2000 school year, the  
14 Foundation Level of support is \$4,325. For the 2000-2001 school  
15 year, the Foundation Level of support is \$4,425. For the  
16 2001-2002 school year and 2002-2003 school year, the Foundation  
17 Level of support is \$4,560. For the 2003-2004 school year, the  
18 Foundation Level of support is \$4,810.

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

23 (4) For the 2005-2006 school year, the Foundation Level of  
24 support is \$5,952. For each school year thereafter, the  
25 Foundation Level of support shall be equal to the Foundation  
26 Level of support for the immediately preceding school year,  
27 increased by the percentage increase, if any, in the ECI  
28 published for the immediately preceding school year, or such  
29 greater amount as may be established by law by the General  
30 Assembly.

31 (C) Average Daily Attendance.

32 (1) For purposes of calculating general State aid pursuant  
33 to subsection (E), an Average Daily Attendance figure shall be  
34 utilized. The Average Daily Attendance figure for formula

1 calculation purposes shall be the monthly average of the actual  
2 number of pupils in attendance of each school district, as  
3 further averaged for the best 3 months of pupil attendance for  
4 each school district. In compiling the figures for the number  
5 of pupils in attendance, school districts and the State Board  
6 of Education shall, for purposes of general State aid funding,  
7 conform attendance figures to the requirements of subsection  
8 (F).

9 (2) The Average Daily Attendance figures utilized in  
10 subsection (E) shall be the requisite attendance data for the  
11 school year immediately preceding the school year for which  
12 general State aid is being calculated or the average of the  
13 attendance data for the 3 preceding school years, whichever is  
14 greater. The Average Daily Attendance figures utilized in  
15 subsection (H) shall be the requisite attendance data for the  
16 school year immediately preceding the school year for which  
17 general State aid is being calculated.

18 (D) Available Local Resources.

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

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

35 (3) For school districts maintaining grades kindergarten

1 through 12, local property tax revenues per pupil shall be  
2 calculated as the product of the applicable equalized assessed  
3 valuation for the district multiplied by 3.00%, and divided by  
4 the district's Average Daily Attendance figure. For school  
5 districts maintaining grades kindergarten through 8, local  
6 property tax revenues per pupil shall be calculated as the  
7 product of the applicable equalized assessed valuation for the  
8 district multiplied by 2.30%, and divided by the district's  
9 Average Daily Attendance figure. For school districts  
10 maintaining grades 9 through 12, local property tax revenues  
11 per pupil shall be the applicable equalized assessed valuation  
12 of the district multiplied by 1.05%, and divided by the  
13 district's Average Daily Attendance figure.

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

24 (E) Computation of General State Aid.

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

28 (2) For any school district for which Available Local  
29 Resources per pupil is less than the product of 0.93 times the  
30 Foundation Level, general State aid for that district shall be  
31 calculated as an amount equal to the Foundation Level minus  
32 Available Local Resources, multiplied by the Average Daily  
33 Attendance of the school district.

34 (3) For any school district for which Available Local  
35 Resources per pupil is equal to or greater than the product of

1 0.93 times the Foundation Level and less than the product of  
2 1.75 times the Foundation Level, the general State aid per  
3 pupil shall be a decimal proportion of the Foundation Level  
4 derived using a linear algorithm. Under this linear algorithm,  
5 the calculated general State aid per pupil shall decline in  
6 direct linear fashion from 0.07 times the Foundation Level for  
7 a school district with Available Local Resources equal to the  
8 product of 0.93 times the Foundation Level, to 0.05 times the  
9 Foundation Level for a school district with Available Local  
10 Resources equal to the product of 1.75 times the Foundation  
11 Level. The allocation of general State aid for school districts  
12 subject to this paragraph 3 shall be the calculated general  
13 State aid per pupil figure multiplied by the Average Daily  
14 Attendance of the school district.

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

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

30 (F) Compilation of Average Daily Attendance.

31 (1) Each school district shall, by July 1 of each year,  
32 submit to the State Board of Education, on forms prescribed by  
33 the State Board of Education, attendance figures for the school  
34 year that began in the preceding calendar year. The attendance  
35 information so transmitted shall identify the average daily

1 attendance figures for each month of the school year. Beginning  
2 with the general State aid claim form for the 2002-2003 school  
3 year, districts shall calculate Average Daily Attendance as  
4 provided in subdivisions (a), (b), and (c) of this paragraph  
5 (1).

6 (a) In districts that do not hold year-round classes,  
7 days of attendance in August shall be added to the month of  
8 September and any days of attendance in June shall be added  
9 to the month of May.

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

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

26 Except as otherwise provided in this Section, days of  
27 attendance by pupils shall be counted only for sessions of not  
28 less than 5 clock hours of school work per day under direct  
29 supervision of: (i) teachers, or (ii) non-teaching personnel or  
30 volunteer personnel when engaging in non-teaching duties and  
31 supervising in those instances specified in subsection (a) of  
32 Section 10-22.34 and paragraph 10 of Section 34-18, with pupils  
33 of legal school age and in kindergarten and grades 1 through  
34 12.

35 Days of attendance by tuition pupils shall be accredited  
36 only to the districts that pay the tuition to a recognized

1 school.

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

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

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

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

23 (d) A session of 3 or more clock hours may be counted  
24 as a day of attendance (1) when the remainder of the school  
25 day or at least 2 hours in the evening of that day is  
26 utilized for an in-service training program for teachers,  
27 up to a maximum of 5 days per school year of which a  
28 maximum of 4 days of such 5 days may be used for  
29 parent-teacher conferences, provided a district conducts  
30 an in-service training program for teachers which has been  
31 approved by the State Superintendent of Education; or, in  
32 lieu of 4 such days, 2 full days may be used, in which  
33 event each such day may be counted as a day of attendance;  
34 and (2) when days in addition to those provided in item (1)  
35 are scheduled by a school pursuant to its school  
36 improvement plan adopted under Article 34 or its revised or

1 amended school improvement plan adopted under Article 2,  
2 provided that (i) such sessions of 3 or more clock hours  
3 are scheduled to occur at regular intervals, (ii) the  
4 remainder of the school days in which such sessions occur  
5 are utilized for in-service training programs or other  
6 staff development activities for teachers, and (iii) a  
7 sufficient number of minutes of school work under the  
8 direct supervision of teachers are added to the school days  
9 between such regularly scheduled sessions to accumulate  
10 not less than the number of minutes by which such sessions  
11 of 3 or more clock hours fall short of 5 clock hours. Any  
12 full days used for the purposes of this paragraph shall not  
13 be considered for computing average daily attendance. Days  
14 scheduled for in-service training programs, staff  
15 development activities, or parent-teacher conferences may  
16 be scheduled separately for different grade levels and  
17 different attendance centers of the district.

18 (e) A session of not less than one clock hour of  
19 teaching hospitalized or homebound pupils on-site or by  
20 telephone to the classroom may be counted as 1/2 day of  
21 attendance, however these pupils must receive 4 or more  
22 clock hours of instruction to be counted for a full day of  
23 attendance.

24 (f) A session of at least 4 clock hours may be counted  
25 as a day of attendance for first grade pupils, and pupils  
26 in full day kindergartens, and a session of 2 or more hours  
27 may be counted as 1/2 day of attendance by pupils in  
28 kindergartens which provide only 1/2 day of attendance.

29 (g) For children with disabilities who are below the  
30 age of 6 years and who cannot attend 2 or more clock hours  
31 because of their disability or immaturity, a session of not  
32 less than one clock hour may be counted as 1/2 day of  
33 attendance; however for such children whose educational  
34 needs so require a session of 4 or more clock hours may be  
35 counted as a full day of attendance.

36 (h) A recognized kindergarten which provides for only



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

17 (G) Equalized Assessed Valuation Data.

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

28 The Department of Revenue shall add to the equalized  
29 assessed value of all taxable property of each school district  
30 situated entirely or partially within a county that is or was  
31 subject to the alternative general homestead exemption  
32 provisions of Section 15-176 of the Property Tax Code (a) ~~(i)~~  
33 an amount equal to the total amount by which the homestead  
34 exemption allowed under Section 15-176 of the Property Tax Code  
35 for real property situated in that school district exceeds the

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

32 This equalized assessed valuation, as adjusted further by  
33 the requirements of this subsection, shall be utilized in the  
34 calculation of Available Local Resources.

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

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

24           (b) The real property equalized assessed valuation for  
25 a school district shall be adjusted by subtracting from the  
26 real property value as equalized or assessed by the  
27 Department of Revenue for the district an amount computed  
28 by dividing the amount of any abatement of taxes under  
29 Section 18-170 of the Property Tax Code by 3.00% for a  
30 district maintaining grades kindergarten through 12, by  
31 2.30% for a district maintaining grades kindergarten  
32 through 8, or by 1.05% for a district maintaining grades 9  
33 through 12 and adjusted by an amount computed by dividing  
34 the amount of any abatement of taxes under subsection (a)  
35 of Section 18-165 of the Property Tax Code by the same  
36 percentage rates for district type as specified in this

1           subparagraph (b).

2           (3) For the 1999-2000 school year and each school year  
3 thereafter, if a school district meets all of the criteria of  
4 this subsection (G) (3), the school district's Available Local  
5 Resources shall be calculated under subsection (D) using the  
6 district's Extension Limitation Equalized Assessed Valuation  
7 as calculated under this subsection (G) (3).

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

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

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

14           "Preceding Tax Year": The property tax levy year  
15 immediately preceding the Base Tax Year.

16           "Base Tax Year's Tax Extension": The product of the  
17 equalized assessed valuation utilized by the County Clerk  
18 in the Base Tax Year multiplied by the limiting rate as  
19 calculated by the County Clerk and defined in the Property  
20 Tax Extension Limitation Law.

21           "Preceding Tax Year's Tax Extension": The product of  
22 the equalized assessed valuation utilized by the County  
23 Clerk in the Preceding Tax Year multiplied by the Operating  
24 Tax Rate as defined in subsection (A).

25           "Extension Limitation Ratio": A numerical ratio,  
26 certified by the County Clerk, in which the numerator is  
27 the Base Tax Year's Tax Extension and the denominator is  
28 the Preceding Tax Year's Tax Extension.

29           "Operating Tax Rate": The operating tax rate as defined  
30 in subsection (A).

31           If a school district is subject to property tax extension  
32 limitations as imposed under the Property Tax Extension  
33 Limitation Law, the State Board of Education shall calculate  
34 the Extension Limitation Equalized Assessed Valuation of that  
35 district. For the 1999-2000 school year, the Extension  
36 Limitation Equalized Assessed Valuation of a school district as

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

18 (4) For the purposes of calculating general State aid for  
19 the 1999-2000 school year only, if a school district  
20 experienced a triennial reassessment on the equalized assessed  
21 valuation used in calculating its general State financial aid  
22 apportionment for the 1998-1999 school year, the State Board of  
23 Education shall calculate the Extension Limitation Equalized  
24 Assessed Valuation that would have been used to calculate the  
25 district's 1998-1999 general State aid. This amount shall equal  
26 the product of the equalized assessed valuation used to  
27 calculate general State aid for the 1997-1998 school year and  
28 the district's Extension Limitation Ratio. If the Extension  
29 Limitation Equalized Assessed Valuation of the school district  
30 as calculated under this paragraph (4) is less than the  
31 district's equalized assessed valuation utilized in  
32 calculating the district's 1998-1999 general State aid  
33 allocation, then for purposes of calculating the district's  
34 general State aid pursuant to paragraph (5) of subsection (E),  
35 that Extension Limitation Equalized Assessed Valuation shall  
36 be utilized to calculate the district's Available Local

1 Resources.

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

14 (H) Supplemental General State Aid.

15 (1) In addition to the general State aid a school district  
16 is allotted pursuant to subsection (E), qualifying school  
17 districts shall receive a grant, paid in conjunction with a  
18 district's payments of general State aid, for supplemental  
19 general State aid based upon the concentration level of  
20 children from low-income households within the school  
21 district. Supplemental State aid grants provided for school  
22 districts under this subsection shall be appropriated for  
23 distribution to school districts as part of the same line item  
24 in which the general State financial aid of school districts is  
25 appropriated under this Section. If the appropriation in any  
26 fiscal year for general State aid and supplemental general  
27 State aid is insufficient to pay the amounts required under the  
28 general State aid and supplemental general State aid  
29 calculations, then the State Board of Education shall ensure  
30 that each school district receives the full amount due for  
31 general State aid and the remainder of the appropriation shall  
32 be used for supplemental general State aid, which the State  
33 Board of Education shall calculate and pay to eligible  
34 districts on a prorated basis.

35 (1.5) This paragraph (1.5) applies only to those school

1 years preceding the 2003-2004 school year. For purposes of this  
2 subsection (H), the term "Low-Income Concentration Level"  
3 shall be the low-income eligible pupil count from the most  
4 recently available federal census divided by the Average Daily  
5 Attendance of the school district. If, however, (i) the  
6 percentage decrease from the 2 most recent federal censuses in  
7 the low-income eligible pupil count of a high school district  
8 with fewer than 400 students exceeds by 75% or more the  
9 percentage change in the total low-income eligible pupil count  
10 of contiguous elementary school districts, whose boundaries  
11 are coterminous with the high school district, or (ii) a high  
12 school district within 2 counties and serving 5 elementary  
13 school districts, whose boundaries are coterminous with the  
14 high school district, has a percentage decrease from the 2 most  
15 recent federal censuses in the low-income eligible pupil count  
16 and there is a percentage increase in the total low-income  
17 eligible pupil count of a majority of the elementary school  
18 districts in excess of 50% from the 2 most recent federal  
19 censuses, then the high school district's low-income eligible  
20 pupil count from the earlier federal census shall be the number  
21 used as the low-income eligible pupil count for the high school  
22 district, for purposes of this subsection (H). The changes made  
23 to this paragraph (1) by Public Act 92-28 shall apply to  
24 supplemental general State aid grants for school years  
25 preceding the 2003-2004 school year that are paid in fiscal  
26 year 1999 or thereafter and to any State aid payments made in  
27 fiscal year 1994 through fiscal year 1998 pursuant to  
28 subsection 1(n) of Section 18-8 of this Code (which was  
29 repealed on July 1, 1998), and any high school district that is  
30 affected by Public Act 92-28 is entitled to a recomputation of  
31 its supplemental general State aid grant or State aid paid in  
32 any of those fiscal years. This recomputation shall not be  
33 affected by any other funding.

34 (1.10) This paragraph (1.10) applies to the 2003-2004  
35 school year and each school year thereafter. For purposes of  
36 this subsection (H), the term "Low-Income Concentration Level"

1 shall, for each fiscal year, be the low-income eligible pupil  
2 count as of July 1 of the immediately preceding fiscal year (as  
3 determined by the Department of Human Services based on the  
4 number of pupils who are eligible for at least one of the  
5 following low income programs: Medicaid, KidCare, TANF, or Food  
6 Stamps, excluding pupils who are eligible for services provided  
7 by the Department of Children and Family Services, averaged  
8 over the 2 immediately preceding fiscal years for fiscal year  
9 2004 and over the 3 immediately preceding fiscal years for each  
10 fiscal year thereafter) divided by the Average Daily Attendance  
11 of the school district.

12 (2) Supplemental general State aid pursuant to this  
13 subsection (H) shall be provided as follows for the 1998-1999,  
14 1999-2000, and 2000-2001 school years only:

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

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

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

27 (d) For any school district with a Low Income  
28 Concentration Level of 60% or more, the grant for the  
29 1998-99 school year shall be \$1,900 multiplied by the low  
30 income eligible pupil count.

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

35 (f) For the 2000-2001 school year, the per pupil  
36 amounts specified in subparagraphs (b), (c), and (d)



1 immediately above shall be \$1,273, \$1,640, and \$2,050,  
2 respectively.

3 (2.5) Supplemental general State aid pursuant to this  
4 subsection (H) shall be provided as follows for the 2002-2003  
5 school year:

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

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

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

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

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

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

30 (2.10) Except as otherwise provided, supplemental general  
31 State aid pursuant to this subsection (H) shall be provided as  
32 follows for the 2003-2004 school year and each school year  
33 thereafter:

34 (a) For any school district with a Low Income  
35 Concentration Level of 15% or less, the grant for the  
36 2003-2004 school year and 2004-2005 ~~each~~ school year shall

1 be \$355 multiplied by the low income eligible pupil count .  
2 For the 2005-2006 school year and each school year  
3 thereafter, the grant shall be \$355, increased by the  
4 percentage increase, if any, in the ECI published for the  
5 immediately preceding school year, and then multiplied by  
6 the low income eligible pupil count.

7 (b) For any school district with a Low Income  
8 Concentration Level greater than 15%, the grant for the  
9 2003-2004 school year and 2004-2005 ~~each~~ school year shall  
10 be \$294.25 added to the product of \$2,700 and the square of  
11 the Low Income Concentration Level, all multiplied by the  
12 low income eligible pupil count. For the 2005-2006 school  
13 year and each school year thereafter, the grant shall be  
14 \$294.25, increased by the percentage increase, if any, in  
15 the ECI published for the immediately preceding school  
16 year, then added to the product of (i) \$2,700, which amount  
17 shall be increased by the percentage increase, if any, in  
18 the ECI published for the immediately preceding school  
19 year, and (ii) the square of the Low Income Concentration  
20 Level, and then all multiplied by the low income eligible  
21 pupil count.

22 For the 2003-2004 and 2004-2005 school year only, the grant  
23 shall be no less than the grant for the 2002-2003 school year.  
24 For the 2005-2006 school year only, the grant shall be no less  
25 than the grant for the 2002-2003 school year multiplied by  
26 0.66. For the 2006-2007 school year only, the grant shall be no  
27 less than the grant for the 2002-2003 school year multiplied by  
28 0.33.

29 For the 2003-2004 school year only, the grant shall be no  
30 greater than the grant received during the 2002-2003 school  
31 year added to the product of 0.25 multiplied by the difference  
32 between the grant amount calculated under subsection (a) or (b)  
33 of this paragraph (2.10), whichever is applicable, and the  
34 grant received during the 2002-2003 school year. For the  
35 2004-2005 school year only, the grant shall be no greater than  
36 the grant received during the 2002-2003 school year added to

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

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

21 (4) School districts with an Average Daily Attendance of  
22 50,000 or more that qualify for supplemental general State aid  
23 pursuant to this subsection shall be required to distribute  
24 from funds available pursuant to this Section, no less than  
25 \$261,000,000 in accordance with the following requirements:

26 (a) The required amounts shall be distributed to the  
27 attendance centers within the district in proportion to the  
28 number of pupils enrolled at each attendance center who are  
29 eligible to receive free or reduced-price lunches or  
30 breakfasts under the federal Child Nutrition Act of 1966  
31 and under the National School Lunch Act during the  
32 immediately preceding school year.

33 (b) The distribution of these portions of supplemental  
34 and general State aid among attendance centers according to  
35 these requirements shall not be compensated for or  
36 contravened by adjustments of the total of other funds

1           appropriated to any attendance centers, and the Board of  
2           Education shall utilize funding from one or several sources  
3           in order to fully implement this provision annually prior  
4           to the opening of school.

5           (c) Each attendance center shall be provided by the  
6           school district a distribution of noncategorical funds and  
7           other categorical funds to which an attendance center is  
8           entitled under law in order that the general State aid and  
9           supplemental general State aid provided by application of  
10          this subsection supplements rather than supplants the  
11          noncategorical funds and other categorical funds provided  
12          by the school district to the attendance centers.

13          (d) Any funds made available under this subsection that  
14          by reason of the provisions of this subsection are not  
15          required to be allocated and provided to attendance centers  
16          may be used and appropriated by the board of the district  
17          for any lawful school purpose.

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

31          (f) Each district subject to the provisions of this  
32          subdivision (H) (4) shall submit an acceptable plan to meet  
33          the educational needs of disadvantaged children, in  
34          compliance with the requirements of this paragraph, to the  
35          State Board of Education prior to July 15 of each year.  
36          This plan shall be consistent with the decisions of local

1 school councils concerning the school expenditure plans  
2 developed in accordance with part 4 of Section 34-2.3. The  
3 State Board shall approve or reject the plan within 60 days  
4 after its submission. If the plan is rejected, the district  
5 shall give written notice of intent to modify the plan  
6 within 15 days of the notification of rejection and then  
7 submit a modified plan within 30 days after the date of the  
8 written notice of intent to modify. Districts may amend  
9 approved plans pursuant to rules promulgated by the State  
10 Board of Education.

11 Upon notification by the State Board of Education that  
12 the district has not submitted a plan prior to July 15 or a  
13 modified plan within the time period specified herein, the  
14 State aid funds affected by that plan or modified plan  
15 shall be withheld by the State Board of Education until a  
16 plan or modified plan is submitted.

17 If the district fails to distribute State aid to  
18 attendance centers in accordance with an approved plan, the  
19 plan for the following year shall allocate funds, in  
20 addition to the funds otherwise required by this  
21 subsection, to those attendance centers which were  
22 underfunded during the previous year in amounts equal to  
23 such underfunding.

24 For purposes of determining compliance with this  
25 subsection in relation to the requirements of attendance  
26 center funding, each district subject to the provisions of  
27 this subsection shall submit as a separate document by  
28 December 1 of each year a report of expenditure data for  
29 the prior year in addition to any modification of its  
30 current plan. If it is determined that there has been a  
31 failure to comply with the expenditure provisions of this  
32 subsection regarding contravention or supplanting, the  
33 State Superintendent of Education shall, within 60 days of  
34 receipt of the report, notify the district and any affected  
35 local school council. The district shall within 45 days of  
36 receipt of that notification inform the State

1 Superintendent of Education of the remedial or corrective  
2 action to be taken, whether by amendment of the current  
3 plan, if feasible, or by adjustment in the plan for the  
4 following year. Failure to provide the expenditure report  
5 or the notification of remedial or corrective action in a  
6 timely manner shall result in a withholding of the affected  
7 funds.

8 The State Board of Education shall promulgate rules and  
9 regulations to implement the provisions of this  
10 subsection. No funds shall be released under this  
11 subdivision (H) (4) to any district that has not submitted a  
12 plan that has been approved by the State Board of  
13 Education.

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

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

25 (2) For a school district which annexes all of the  
26 territory of one or more entire other school districts, for the  
27 first year during which the change of boundaries attributable  
28 to such annexation becomes effective for all purposes as  
29 determined under Section 7-9 or 7A-8, the general State aid and  
30 supplemental general State aid calculated under this Section  
31 shall be computed for the annexing district as constituted  
32 after the annexation and for the annexing and each annexed  
33 district as constituted prior to the annexation; and if the  
34 computation on the basis of the annexing and annexed districts  
35 as constituted prior to the annexation is greater, a

1 supplementary payment equal to the difference shall be made for  
2 the first 4 years of existence of the annexing school district  
3 as constituted upon such annexation.

4 (3) For 2 or more school districts which annex all of the  
5 territory of one or more entire other school districts, and for  
6 2 or more community unit districts which result upon the  
7 division (pursuant to petition under Section 11A-2) of one or  
8 more other unit school districts into 2 or more parts and which  
9 together include all of the parts into which such other unit  
10 school district or districts are so divided, for the first year  
11 during which the change of boundaries attributable to such  
12 annexation or division becomes effective for all purposes as  
13 determined under Section 7-9 or 11A-10, as the case may be, the  
14 general State aid and supplemental general State aid calculated  
15 under this Section shall be computed for each annexing or  
16 resulting district as constituted after the annexation or  
17 division and for each annexing and annexed district, or for  
18 each resulting and divided district, as constituted prior to  
19 the annexation or division; and if the aggregate of the general  
20 State aid and supplemental general State aid as so computed for  
21 the annexing or resulting districts as constituted after the  
22 annexation or division is less than the aggregate of the  
23 general State aid and supplemental general State aid as so  
24 computed for the annexing and annexed districts, or for the  
25 resulting and divided districts, as constituted prior to the  
26 annexation or division, then a supplementary payment equal to  
27 the difference shall be made and allocated between or among the  
28 annexing or resulting districts, as constituted upon such  
29 annexation or division, for the first 4 years of their  
30 existence. The total difference payment shall be allocated  
31 between or among the annexing or resulting districts in the  
32 same ratio as the pupil enrollment from that portion of the  
33 annexed or divided district or districts which is annexed to or  
34 included in each such annexing or resulting district bears to  
35 the total pupil enrollment from the entire annexed or divided  
36 district or districts, as such pupil enrollment is determined

1 for the school year last ending prior to the date when the  
2 change of boundaries attributable to the annexation or division  
3 becomes effective for all purposes. The amount of the total  
4 difference payment and the amount thereof to be allocated to  
5 the annexing or resulting districts shall be computed by the  
6 State Board of Education on the basis of pupil enrollment and  
7 other data which shall be certified to the State Board of  
8 Education, on forms which it shall provide for that purpose, by  
9 the regional superintendent of schools for each educational  
10 service region in which the annexing and annexed districts, or  
11 resulting and divided districts are located.

12 (3.5) Claims for financial assistance under this  
13 subsection (I) shall not be recomputed except as expressly  
14 provided under this Section.

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

18 (J) Supplementary Grants in Aid.

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



1 Section) for the 1997-1998 school year, pursuant to the  
2 provisions of that Section as it was then in effect.

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

14 (3) (Blank).

15 (K) Grants to Laboratory and Alternative Schools.

16 In calculating the amount to be paid to the governing board  
17 of a public university that operates a laboratory school under  
18 this Section or to any alternative school that is operated by a  
19 regional superintendent of schools, the State Board of  
20 Education shall require by rule such reporting requirements as  
21 it deems necessary.

22 As used in this Section, "laboratory school" means a public  
23 school which is created and operated by a public university and  
24 approved by the State Board of Education. The governing board  
25 of a public university which receives funds from the State  
26 Board under this subsection (K) may not increase the number of  
27 students enrolled in its laboratory school from a single  
28 district, if that district is already sending 50 or more  
29 students, except under a mutual agreement between the school  
30 board of a student's district of residence and the university  
31 which operates the laboratory school. A laboratory school may  
32 not have more than 1,000 students, excluding students with  
33 disabilities in a special education program.

34 As used in this Section, "alternative school" means a  
35 public school which is created and operated by a Regional

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

15 Each laboratory and alternative school shall file, on forms  
16 provided by the State Superintendent of Education, an annual  
17 State aid claim which states the Average Daily Attendance of  
18 the school's students by month. The best 3 months' Average  
19 Daily Attendance shall be computed for each school. The general  
20 State aid entitlement shall be computed by multiplying the  
21 applicable Average Daily Attendance by the Foundation Level as  
22 determined under this Section.

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

24 (1) For a school district operating under the financial  
25 supervision of an Authority created under Article 34A, the  
26 general State aid otherwise payable to that district under this  
27 Section, but not the supplemental general State aid, shall be  
28 reduced by an amount equal to the budget for the operations of  
29 the Authority as certified by the Authority to the State Board  
30 of Education, and an amount equal to such reduction shall be  
31 paid to the Authority created for such district for its  
32 operating expenses in the manner provided in Section 18-11. The  
33 remainder of general State school aid for any such district  
34 shall be paid in accordance with Article 34A when that Article  
35 provides for a disposition other than that provided by this

1 Article.

2 (2) (Blank).

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

5 (M) Education Funding Advisory Board.

6 The Education Funding Advisory Board, hereinafter in this  
7 subsection (M) referred to as the "Board", is hereby created.  
8 The Board shall consist of 5 members who are appointed by the  
9 Governor, by and with the advice and consent of the Senate. The  
10 members appointed shall include representatives of education,  
11 business, and the general public. One of the members so  
12 appointed shall be designated by the Governor at the time the  
13 appointment is made as the chairperson of the Board. The  
14 initial members of the Board may be appointed any time after  
15 the effective date of this amendatory Act of 1997. The regular  
16 term of each member of the Board shall be for 4 years from the  
17 third Monday of January of the year in which the term of the  
18 member's appointment is to commence, except that of the 5  
19 initial members appointed to serve on the Board, the member who  
20 is appointed as the chairperson shall serve for a term that  
21 commences on the date of his or her appointment and expires on  
22 the third Monday of January, 2002, and the remaining 4 members,  
23 by lots drawn at the first meeting of the Board that is held  
24 after all 5 members are appointed, shall determine 2 of their  
25 number to serve for terms that commence on the date of their  
26 respective appointments and expire on the third Monday of  
27 January, 2001, and 2 of their number to serve for terms that  
28 commence on the date of their respective appointments and  
29 expire on the third Monday of January, 2000. All members  
30 appointed to serve on the Board shall serve until their  
31 respective successors are appointed and confirmed. Vacancies  
32 shall be filled in the same manner as original appointments. If  
33 a vacancy in membership occurs at a time when the Senate is not  
34 in session, the Governor shall make a temporary appointment  
35 until the next meeting of the Senate, when he or she shall

1 appoint, by and with the advice and consent of the Senate, a  
2 person to fill that membership for the unexpired term. If the  
3 Senate is not in session when the initial appointments are  
4 made, those appointments shall be made as in the case of  
5 vacancies.

6 The Education Funding Advisory Board shall be deemed  
7 established, and the initial members appointed by the Governor  
8 to serve as members of the Board shall take office, on the date  
9 that the Governor makes his or her appointment of the fifth  
10 initial member of the Board, whether those initial members are  
11 then serving pursuant to appointment and confirmation or  
12 pursuant to temporary appointments that are made by the  
13 Governor as in the case of vacancies.

14 The State Board of Education shall provide such staff  
15 assistance to the Education Funding Advisory Board as is  
16 reasonably required for the proper performance by the Board of  
17 its responsibilities.

18 For school years after the 2000-2001 school year, the  
19 Education Funding Advisory Board, in consultation with the  
20 State Board of Education, shall make recommendations as  
21 provided in this subsection (M) to the General Assembly for the  
22 foundation level under subsection (B) ~~subdivision (B) (3)~~ of  
23 this Section and for the supplemental general State aid grant  
24 level under subsection (H) of this Section for districts with  
25 high concentrations of children from poverty. The recommended  
26 foundation level shall be determined based on a methodology  
27 which incorporates the basic education expenditures of  
28 low-spending schools exhibiting high academic performance. The  
29 Education Funding Advisory Board shall make such  
30 recommendations to the General Assembly on January 1 of odd  
31 numbered years, beginning January 1, 2001.

32 (N) (Blank).

33 (O) References.

34 (1) References in other laws to the various subdivisions of

1 Section 18-8 as that Section existed before its repeal and  
2 replacement by this Section 18-8.05 shall be deemed to refer to  
3 the corresponding provisions of this Section 18-8.05, to the  
4 extent that those references remain applicable.

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

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

18 (Source: P.A. 92-16, eff. 6-28-01; 92-28, eff. 7-1-01; 92-29,  
19 eff. 7-1-01; 92-269, eff. 8-7-01; 92-604, eff. 7-1-02; 92-636,  
20 eff. 7-11-02; 92-651, eff. 7-11-02; 93-21, eff. 7-1-03; 93-715,  
21 eff. 7-12-04; 93-808, eff. 7-26-04; 93-838, eff. 7-30-04;  
22 93-875, eff. 8-6-04; revised 10-21-04.)

23 (105 ILCS 5/18-8.15 new)

24 Sec. 18-8.15. Supplemental State aid for rapidly expanding  
25 school districts.

26 (a) If there has been an increase in a school district's  
27 student population over any 2 consecutive school years of (i)  
28 over 1.5% in a district with 10,000 or more pupils in average  
29 daily attendance, as defined in Section 18-8.05 of this Code,  
30 or (ii) over 10% in any other district, then, subject to  
31 appropriation, the district is eligible for a grant under this  
32 Section.

33 (b) The State Board of Education shall determine a per  
34 pupil grant amount for each school district based on the needs

1 of each district. The total grant amount for a district for any  
2 given school year shall equal the per pupil grant amount  
3 multiplied by the difference between the number of pupils in  
4 average daily attendance for the first 3 months of the school  
5 year and the number of pupils in average daily attendance for  
6 the immediately preceding school year.

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

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

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

23 (105 ILCS 5/18-25 new)

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

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

1       Act.

2           (2) For each fiscal year thereafter, a total  
3       appropriation equal to (A) the Education Appropriation  
4       Minimum for the immediately preceding fiscal year,  
5       increased by the percentage increase, if any, in the  
6       Employment Cost Index published by the U.S. Bureau of Labor  
7       Statistics for the immediately preceding fiscal year, or  
8       (B) such greater amount as the General Assembly may  
9       appropriate.

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