

1 AN ACT in relation to economic development.

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

4 ARTICLE 5.

5 SOUTHERN ILLINOIS ECONOMIC DEVELOPMENT AUTHORITY ACT

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

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

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

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

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

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

1 adequate, decent, and affordable housing;

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

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

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

17 Section 5-15. Definitions. In this Act:

18 "Authority" means the Southern Illinois Economic
19 Development Authority.

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

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

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

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

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

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

1 "Industrial project" means the following:

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

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

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

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

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

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

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

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

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

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

8 (2) financing charges;

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

12 (4) engineering and legal expenses; and

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

20 Section 5-20. Creation.

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

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

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

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

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

15 (c) 11 members shall constitute a quorum.

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

19 (e) The terms of all initial members of the Authority shall
20 begin 30 days after the effective date of this Act. Of the 6
21 original public members appointed by the Governor, 2 shall
22 serve until the third Monday in January, 2007; 1 shall serve
23 until the third Monday in January, 2008; 1 shall serve until
24 the third Monday in January, 2009; 1 shall serve until the
25 third Monday in January, 2010; and 1 shall serve until the
26 third Monday in January, 2011. The initial terms of the
27 original public members appointed by the county board chairmen
28 shall be determined by lot, according to the following
29 schedule: (i) 3 shall serve until the third Monday in January,
30 2007, (ii) 3 shall serve until the third Monday in January,
31 2008, (iii) 3 shall serve until the third Monday in January,
32 2009, (iv) 3 shall serve until the third Monday in January,
33 2010, and (v) 2 shall serve until the third Monday in January,
34 2011. All successors to these original public members shall be
35 appointed by the original appointing authority and all
36 appointments made by the Governor shall be made with the advice

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

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

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

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

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

15 Section 5-30. Powers.

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

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

23 (2) to sue and be sued;

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

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

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

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

34 (7) to accept and expend appropriations;

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

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

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

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

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

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

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

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

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

10 Section 5-40. Bonds.

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

1 other funds available to the Authority for such purposes. The
2 bonds, notes, or other evidences of indebtedness may bear such
3 date or dates, may mature at such time or times not exceeding
4 40 years from their respective dates, may bear interest at such
5 rate or rates not exceeding the maximum rate permitted by the
6 Bond Authorization Act, may be in such form, may carry such
7 registration privileges, may be executed in such manner, may be
8 payable at such place or places, may be made subject to
9 redemption in such manner and upon such terms, with or without
10 premium, as is stated on the face thereof, may be authenticated
11 in such manner and may contain such terms and covenants as may
12 be provided by an applicable resolution.

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

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

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

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

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

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

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

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

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

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

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

20 Section 5-50. Acquisition.

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

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

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

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

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

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

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

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

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

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

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

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

22 ARTICLE 10.

23 RIVER EDGE REDEVELOPMENT ZONE ACT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (i) the area is qualified in accordance with Section
17 10-4; and

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

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

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

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

35 (iii) provisions for any tax incentives or

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

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

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

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

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

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

21 (2) a map of the proposed zone;

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

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

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

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

1 municipality;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (f) The Department's determination of whether to certify a
22 River Edge Redevelopment Zone shall be based on the purposes of
23 this Act, the criteria set forth in Section 10-4 and subsection
24 (e) of this Section, and any additional criteria adopted by
25 regulation of the Department under paragraph (d) of Section
26 10-4.

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

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

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

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

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

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

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

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

1 10 of the United States Code.

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

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

6 (1) alter the boundaries of the Zone;

7 (2) expand, limit or repeal tax incentives or benefits
8 provided in the ordinance;

9 (3) alter the termination date of the zone; or

10 (4) make technical corrections in the river edge
11 redevelopment zone designating ordinance.

12 An amendment shall not be effective unless the Department
13 issues an amended certificate for the River Edge Redevelopment
14 Zone, approving the amended designating ordinance. Upon the
15 adoption of any ordinance amending or repealing the terms of a
16 certified river edge redevelopment zone designating ordinance,
17 the municipality shall promptly file with the Department an
18 application for approval thereof, containing substantially the
19 same information as required for an application under Section
20 10-5.1 insofar as material to the proposed changes. The
21 municipality must hold a public hearing on the proposed changes
22 as specified in Section 10-5 and, if the amendment is to
23 effectuate the limitation of tax abatements under Section
24 10-5.4.1, then the public notice of the hearing shall state
25 that property that is in both the zone and a redevelopment
26 project area may not receive tax abatements unless within 60
27 days after the adoption of the amendment to the designating
28 ordinance the municipality has determined that eligibility for
29 tax abatements has been established.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 parties defendant.

2 Section 10-5.4.1. Adoption of tax increment financing.

3 (a) If (i) a redevelopment project area is, will be, or has
4 been created by a municipality under Division 74.4 of Article
5 11 of the Illinois Municipal Code, (ii) the redevelopment
6 project area contains property that is located in a River Edge
7 Redevelopment Zone, (iii) the municipality adopts an amendment
8 to the River Edge Redevelopment Zone designating ordinance
9 pursuant to Section 10-4 of this Act specifically concerning
10 the abatement of taxes on property located within a
11 redevelopment project area created pursuant to Division 74.4 of
12 Article 11 of the Illinois Municipal Code, and (iv) the
13 Department certifies the ordinance amendment, then the
14 property that is located in both the River Edge Redevelopment
15 Zone and the redevelopment project area shall not be eligible
16 for the abatement of taxes under Section 18-170 of the Property
17 Tax Code.

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

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

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

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

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

30 Section 10-6. Powers and duties of Department.

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

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

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

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

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

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

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

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

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

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

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

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

30 Section 10-10. Income tax deduction.

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

1 designating municipality and by the Department.

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

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

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

11 (3) The project must lack sufficient resources.

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

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

16 (1) by creating permanent jobs;

17 (2) by physically improving the housing stock;

18 (3) by stimulating neighborhood business activity; or

19 (4) by preventing crime.

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

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

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

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

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

25 ARTICLE 90.

26 AMENDATORY PROVISIONS

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

30 (20 ILCS 605/605-907 new)

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

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

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

7 (20 ILCS 715/5)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

16 Sec. 201. Tax Imposed.

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

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

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

31 (2) In the case of an individual, trust or estate, for
32 taxable years beginning prior to July 1, 1989 and ending
33 after June 30, 1989, an amount equal to the sum of (i) 2
34 1/2% of the taxpayer's net income for the period prior to

1 July 1, 1989, as calculated under Section 202.3, and (ii)
2 3% of the taxpayer's net income for the period after June
3 30, 1989, as calculated under Section 202.3.

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

8 (4) (Blank).

9 (5) (Blank).

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

13 (7) In the case of a corporation, for taxable years
14 beginning prior to July 1, 1989 and ending after June 30,
15 1989, an amount equal to the sum of (i) 4% of the
16 taxpayer's net income for the period prior to July 1, 1989,
17 as calculated under Section 202.3, and (ii) 4.8% of the
18 taxpayer's net income for the period after June 30, 1989,
19 as calculated under Section 202.3.

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

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

36 (d) Additional Personal Property Tax Replacement Income

1 Tax Rates. The personal property tax replacement income tax
2 imposed by this subsection and subsection (c) of this Section
3 in the case of a corporation, other than a Subchapter S
4 corporation and except as adjusted by subsection (d-1), shall
5 be an additional amount equal to 2.85% of such taxpayer's net
6 income for the taxable year, except that beginning on January
7 1, 1981, and thereafter, the rate of 2.85% specified in this
8 subsection shall be reduced to 2.5%, and in the case of a
9 partnership, trust or a Subchapter S corporation shall be an
10 additional amount equal to 1.5% of such taxpayer's net income
11 for the taxable year.

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

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

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

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

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

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

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

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

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

1 July 1, 1986, and the taxpayer's base employment within
2 Illinois has increased by 1% or more over the preceding
3 year as determined by the taxpayer's employment records
4 filed with the Illinois Department of Employment Security.
5 Taxpayers who are new to Illinois shall be deemed to have
6 met the 1% growth in base employment for the first year in
7 which they file employment records with the Illinois
8 Department of Employment Security. The provisions added to
9 this Section by Public Act 85-1200 (and restored by Public
10 Act 87-895) shall be construed as declaratory of existing
11 law and not as a new enactment. If, in any year, the
12 increase in base employment within Illinois over the
13 preceding year is less than 1%, the additional credit shall
14 be limited to that percentage times a fraction, the
15 numerator of which is .5% and the denominator of which is
16 1%, but shall not exceed .5%. The investment credit shall
17 not be allowed to the extent that it would reduce a
18 taxpayer's liability in any tax year below zero, nor may
19 any credit for qualified property be allowed for any year
20 other than the year in which the property was placed in
21 service in Illinois. For tax years ending on or after
22 December 31, 1987, and on or before December 31, 1988, the
23 credit shall be allowed for the tax year in which the
24 property is placed in service, or, if the amount of the
25 credit exceeds the tax liability for that year, whether it
26 exceeds the original liability or the liability as later
27 amended, such excess may be carried forward and applied to
28 the tax liability of the 5 taxable years following the
29 excess credit years if the taxpayer (i) makes investments
30 which cause the creation of a minimum of 2,000 full-time
31 equivalent jobs in Illinois, (ii) is located in an
32 enterprise zone established pursuant to the Illinois
33 Enterprise Zone Act and (iii) is certified by the
34 Department of Commerce and Community Affairs (now
35 Department of Commerce and Economic Opportunity) as
36 complying with the requirements specified in clause (i) and

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

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

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

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

30 (C) is acquired by purchase as defined in Section
31 179(d) of the Internal Revenue Code;

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

1 Redevelopment Zone Act; and

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

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

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

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

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

28 (7) If during any taxable year, any property ceases to
29 be qualified property in the hands of the taxpayer within
30 48 months after being placed in service, or the situs of
31 any qualified property is moved outside Illinois within 48
32 months after being placed in service, the Personal Property
33 Tax Replacement Income Tax for such taxable year shall be
34 increased. Such increase shall be determined by (i)
35 recomputing the investment credit which would have been
36 allowed for the year in which credit for such property was

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

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

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

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

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

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

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

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

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

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

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

14 (C) is acquired by purchase as defined in Section
15 179(d) of the Internal Revenue Code;

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

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

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

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

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

33 (6) If during any taxable year, any property ceases to
34 be qualified property in the hands of the taxpayer within
35 48 months after being placed in service, or the situs of
36 any qualified property is moved outside the Enterprise Zone

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

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

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

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

1 River Edge Redevelopment Zone conducting a trade or
2 business in a federally designated Foreign Trade Zone or
3 Sub-Zone shall be allowed a credit against the tax imposed
4 by subsections (a) and (b) of this Section in the amount of
5 \$500 per eligible employee hired to work in the zone during
6 the taxable year.

7 (2) To qualify for the credit:

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

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

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

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

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

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

36 (C) Employed in the enterprise zone, River Edge

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

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

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

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

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

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

28 (h) Investment credit; High Impact Business.

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

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

32 Changes made in this subdivision (h)(1) by Public Act
33 88-670 restore changes made by Public Act 85-1182 and
34 reflect existing law.

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

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

1 buildings and structural components of buildings;

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

7 (C) is acquired by purchase as defined in Section
8 179(d) of the Internal Revenue Code; and

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

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

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

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

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

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

5 (7) Beginning with tax years ending after December 31,
6 1996, if a taxpayer qualifies for the credit under this
7 subsection (h) and thereby is granted a tax abatement and
8 the taxpayer relocates its entire facility in violation of
9 the explicit terms and length of the contract under Section
10 18-183 of the Property Tax Code, the tax imposed under
11 subsections (a) and (b) of this Section shall be increased
12 for the taxable year in which the taxpayer relocated its
13 facility by an amount equal to the amount of credit
14 received by the taxpayer under this subsection (h).

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

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

1 earliest credit arising under this subsection shall be applied
2 first.

3 If, during any taxable year ending on or after December 31,
4 1986, the tax imposed by subsections (c) and (d) of this
5 Section for which a taxpayer has claimed a credit under this
6 subsection (i) is reduced, the amount of credit for such tax
7 shall also be reduced. Such reduction shall be determined by
8 recomputing the credit to take into account the reduced tax
9 imposed by subsections (c) and (d). If any portion of the
10 reduced amount of credit has been carried to a different
11 taxable year, an amended return shall be filed for such taxable
12 year to reduce the amount of credit claimed.

13 (j) Training expense credit. Beginning with tax years
14 ending on or after December 31, 1986 and prior to December 31,
15 2003, a taxpayer shall be allowed a credit against the tax
16 imposed by subsections (a) and (b) under this Section for all
17 amounts paid or accrued, on behalf of all persons employed by
18 the taxpayer in Illinois or Illinois residents employed outside
19 of Illinois by a taxpayer, for educational or vocational
20 training in semi-technical or technical fields or semi-skilled
21 or skilled fields, which were deducted from gross income in the
22 computation of taxable income. The credit against the tax
23 imposed by subsections (a) and (b) shall be 1.6% of such
24 training expenses. For partners, shareholders of subchapter S
25 corporations, and owners of limited liability companies, if the
26 liability company is treated as a partnership for purposes of
27 federal and State income taxation, there shall be allowed a
28 credit under this subsection (j) to be determined in accordance
29 with the determination of income and distributive share of
30 income under Sections 702 and 704 and subchapter S of the
31 Internal Revenue Code.

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

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

6 (k) Research and development credit.

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

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

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

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

8 If an unused credit is carried forward to a given year from
9 2 or more earlier years, that credit arising in the earliest
10 year will be applied first against the tax liability for the
11 given year. If a tax liability for the given year still
12 remains, the credit from the next earliest year will then be
13 applied, and so on, until all credits have been used or no tax
14 liability for the given year remains. Any remaining unused
15 credit or credits then will be carried forward to the next
16 following year in which a tax liability is incurred, except
17 that no credit can be carried forward to a year which is more
18 than 5 years after the year in which the expense for which the
19 credit is given was incurred.

20 No inference shall be drawn from this amendatory Act of the
21 91st General Assembly in construing this Section for taxable
22 years beginning before January 1, 1999.

23 (1) Environmental Remediation Tax Credit.

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

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

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

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

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

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

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

3 For purposes of this subsection:

4 "Qualifying pupils" means individuals who (i) are
5 residents of the State of Illinois, (ii) are under the age of
6 21 at the close of the school year for which a credit is
7 sought, and (iii) during the school year for which a credit is
8 sought were full-time pupils enrolled in a kindergarten through
9 twelfth grade education program at any school, as defined in
10 this subsection.

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

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

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

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

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

1 Redevelopment Zone for which a No Further Remediation
2 Letter was issued by the Agency and recorded under Section
3 58.10 of the Environmental Protection Act. The credit must
4 be claimed for the taxable year in which Agency approval of
5 the eligible remediation costs is granted. The credit is
6 not available to any taxpayer if the taxpayer or any
7 related party caused or contributed to, in any material
8 respect, a release of regulated substances on, in, or under
9 the site that was identified and addressed by the remedial
10 action pursuant to the Site Remediation Program of the
11 Environmental Protection Act. Determinations as to credit
12 availability for purposes of this Section shall be made
13 consistent with rules adopted by the Pollution Control
14 Board pursuant to the Illinois Administrative Procedure
15 Act for the administration and enforcement of Section 58.9
16 of the Environmental Protection Act. For purposes of this
17 Section, "taxpayer" includes a person whose tax attributes
18 the taxpayer has succeeded to under Section 381 of the
19 Internal Revenue Code and "related party" includes the
20 persons disallowed a deduction for losses by paragraphs
21 (b), (c), and (f) (1) of Section 267 of the Internal Revenue
22 Code by virtue of being a related taxpayer, as well as any
23 of its partners. The credit allowed against the tax imposed
24 by subsections (a) and (b) shall be equal to 25% of the
25 unreimbursed eligible remediation costs in excess of
26 \$100,000 per site.

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

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

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

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

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

22 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

23 Sec. 203. Base income defined.

24 (a) Individuals.

25 (1) In general. In the case of an individual, base
26 income means an amount equal to the taxpayer's adjusted
27 gross income for the taxable year as modified by paragraph
28 (2).

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

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

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

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

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

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

24 (D-5) An amount, to the extent not included in
25 adjusted gross income, equal to the amount of money
26 withdrawn by the taxpayer in the taxable year from a
27 medical care savings account and the interest earned on
28 the account in the taxable year of a withdrawal
29 pursuant to subsection (b) of Section 20 of the Medical
30 Care Savings Account Act or subsection (b) of Section
31 20 of the Medical Care Savings Account Act of 2000;

32 (D-10) For taxable years ending after December 31,
33 1997, an amount equal to any eligible remediation costs
34 that the individual deducted in computing adjusted
35 gross income and for which the individual claims a
36 credit under subsection (1) of Section 201;

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

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

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

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

1 whom the interest was paid, accrued, or incurred.

2 This paragraph shall not apply to the following:

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

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

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

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

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

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

1 alternative method of apportionment under Section
2 304(f).

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

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

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

14 This paragraph shall not apply to the following:

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

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

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

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

1 or

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

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

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

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

31 (E) For taxable years ending before December 31,
32 2001, any amount included in such total in respect of
33 any compensation (including but not limited to any
34 compensation paid or accrued to a serviceman while a
35 prisoner of war or missing in action) paid to a
36 resident by reason of being on active duty in the Armed

1 Forces of the United States and in respect of any
2 compensation paid or accrued to a resident who as a
3 governmental employee was a prisoner of war or missing
4 in action, and in respect of any compensation paid to a
5 resident in 1971 or thereafter for annual training
6 performed pursuant to Sections 502 and 503, Title 32,
7 United States Code as a member of the Illinois National
8 Guard. For taxable years ending on or after December
9 31, 2001, any amount included in such total in respect
10 of any compensation (including but not limited to any
11 compensation paid or accrued to a serviceman while a
12 prisoner of war or missing in action) paid to a
13 resident by reason of being a member of any component
14 of the Armed Forces of the United States and in respect
15 of any compensation paid or accrued to a resident who
16 as a governmental employee was a prisoner of war or
17 missing in action, and in respect of any compensation
18 paid to a resident in 2001 or thereafter by reason of
19 being a member of the Illinois National Guard. The
20 provisions of this amendatory Act of the 92nd General
21 Assembly are exempt from the provisions of Section 250;

22 (F) An amount equal to all amounts included in such
23 total pursuant to the provisions of Sections 402(a),
24 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the
25 Internal Revenue Code, or included in such total as
26 distributions under the provisions of any retirement
27 or disability plan for employees of any governmental
28 agency or unit, or retirement payments to retired
29 partners, which payments are excluded in computing net
30 earnings from self employment by Section 1402 of the
31 Internal Revenue Code and regulations adopted pursuant
32 thereto;

33 (G) The valuation limitation amount;

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

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

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

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

25 (L) For taxable years ending after December 31,
26 1983, an amount equal to all social security benefits
27 and railroad retirement benefits included in such
28 total pursuant to Sections 72(r) and 86 of the Internal
29 Revenue Code;

30 (M) With the exception of any amounts subtracted
31 under subparagraph (N), an amount equal to the sum of
32 all amounts disallowed as deductions by (i) Sections
33 171(a) (2), and 265(2) of the Internal Revenue Code of
34 1954, as now or hereafter amended, and all amounts of
35 expenses allocable to interest and disallowed as
36 deductions by Section 265(1) of the Internal Revenue

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (Z) For taxable years 2001 and thereafter, for the
28 taxable year in which the bonus depreciation deduction
29 (30% of the adjusted basis of the qualified property)
30 is taken on the taxpayer's federal income tax return
31 under subsection (k) of Section 168 of the Internal
32 Revenue Code and for each applicable taxable year
33 thereafter, an amount equal to "x", where:

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

1 for which the bonus depreciation deduction (30% of
2 the adjusted basis of the qualified property) was
3 taken in any year under subsection (k) of Section
4 168 of the Internal Revenue Code, but not including
5 the bonus depreciation deduction; and

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

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

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

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

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

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

1 allocable thereto) taken into account for the taxable
2 year with respect to a transaction with a taxpayer that
3 is required to make an addition modification with
4 respect to such transaction under Section
5 203(a)(2)(D-18), 203(b)(2)(E-14), 203(c)(2)(G-13), or
6 203(d)(2)(D-8), but not to exceed the amount of that
7 addition modification;

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

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

33 (b) Corporations.

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

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

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

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

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

13 (C) In the case of a regulated investment company,
14 an amount equal to the excess of (i) the net long-term
15 capital gain for the taxable year, over (ii) the amount
16 of the capital gain dividends designated as such in
17 accordance with Section 852(b)(3)(C) of the Internal
18 Revenue Code and any amount designated under Section
19 852(b)(3)(D) of the Internal Revenue Code,
20 attributable to the taxable year (this amendatory Act
21 of 1995 (Public Act 89-89) is declarative of existing
22 law and is not a new enactment);

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

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

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

9 (ii) 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 not exceed the amount of
13 such carryback or carryforward;

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

21 (E-5) For taxable years ending after December 31,
22 1997, an amount equal to any eligible remediation costs
23 that the corporation deducted in computing adjusted
24 gross income and for which the corporation claims a
25 credit under subsection (l) of Section 201;

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

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

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

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

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

28 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

1 under Section 404 of this Act;

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

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

4 This paragraph shall not apply to the following:

5 (i) any item of intangible expenses or costs
6 paid, accrued, or incurred, directly or
7 indirectly, from a transaction with 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 item; or

12 (ii) any item of intangible expense or cost
13 paid, accrued, or incurred, directly or
14 indirectly, if the taxpayer can establish, based
15 on a 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 intangible expense or cost to a person that is
20 not a related member, and

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

28 (iii) any item of intangible expense or cost
29 paid, accrued, or incurred, directly or
30 indirectly, from a transaction with 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 and by deducting from the total so obtained the sum of the
11 following amounts:

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

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

17 (H) In the case of a regulated investment company,
18 an amount equal to the amount of exempt interest
19 dividends as defined in subsection (b) (5) of Section
20 852 of the Internal Revenue Code, paid to shareholders
21 for the taxable year;

22 (I) With the exception of any amounts subtracted
23 under subparagraph (J), an amount equal to the sum of
24 all amounts disallowed as deductions by (i) Sections
25 171(a) (2), and 265(a) (2) and amounts disallowed as
26 interest expense by Section 291(a) (3) of the Internal
27 Revenue Code, as now or hereafter amended, and all
28 amounts of expenses allocable to interest and
29 disallowed as deductions by Section 265(a) (1) of the
30 Internal Revenue Code, as now or hereafter amended; and
31 (ii) for taxable years ending on or after August 13,
32 1999, Sections 171(a) (2), 265, 280C, 291(a) (3), and
33 832(b) (5) (B) (i) of the Internal Revenue Code; the
34 provisions of this subparagraph are exempt from the
35 provisions of Section 250;

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

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

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

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

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

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

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 or under
13 Section 10-10 of the Illinois River Edge Redevelopment
14 Zone Act. This subparagraph (N) is exempt from the
15 provisions of Section 250;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (X) An amount equal to the income from intangible
27 property taken into account for the taxable year (net
28 of the 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 that 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(b)(2)(E-13) for
36 intangible expenses and costs paid, accrued, or

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

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

7 (c) Trusts and estates.

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

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

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

19 (B) In the case of (i) an estate, \$600; (ii) a
20 trust which, under its governing instrument, is
21 required to distribute all of its income currently,
22 \$300; and (iii) any other trust, \$100, but in each such
23 case, only to the extent such amount was deducted in
24 the computation of taxable income;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

20 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

1 Internal Revenue Code and regulations adopted pursuant
2 thereto;

3 (I) The valuation limitation amount;

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

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

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

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

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

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

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

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

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

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

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

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

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

36 The aggregate amount deducted under this

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

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

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

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

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

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

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

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

29 (d) Partnerships.

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

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

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

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

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

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 taxable income;

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

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

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

33 (D-7) For taxable years ending on or after December
34 31, 2004, an amount equal to the amount otherwise
35 allowed as a deduction in computing base income for
36 interest paid, accrued, or incurred, directly or

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

16 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

26 (D-8) For taxable years ending on or after December
27 31, 2004, an amount equal to the amount of intangible
28 expenses and costs otherwise allowed as a deduction in
29 computing base income, and that were paid, accrued, or
30 incurred, directly or indirectly, to a foreign person
31 who would be a member of the same unitary business
32 group but for the fact that the foreign person's
33 business activity outside the United States is 80% or
34 more of that person's total business activity. The
35 addition modification required by this subparagraph
36 shall be reduced to the extent that dividends were

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

28 This paragraph shall not apply to the following:

29 (i) any item of intangible expenses or costs
30 paid, accrued, or incurred, directly or
31 indirectly, from a transaction with 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 item; or

36 (ii) any item of intangible expense or cost

1 paid, accrued, or incurred, directly or
2 indirectly, if the taxpayer can establish, based
3 on a 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 intangible expense or cost to a person that is
8 not a related member, and

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

16 (iii) any item of intangible expense or cost
17 paid, accrued, or incurred, directly or
18 indirectly, from a transaction with a foreign
19 person if the taxpayer establishes by clear and
20 convincing evidence, that the adjustments are
21 unreasonable; or if the taxpayer and the Director
22 agree in writing to the application or use of an
23 alternative method of apportionment under Section
24 304(f);

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

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

36 (E) The valuation limitation amount;

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

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

20 (I) An amount equal to all amounts of income
21 distributable to an entity subject to the Personal
22 Property Tax Replacement Income Tax imposed by
23 subsections (c) and (d) of Section 201 of this Act
24 including amounts distributable to organizations
25 exempt from federal income tax by reason of Section
26 501(a) of the Internal Revenue Code;

27 (J) With the exception of any amounts subtracted
28 under subparagraph (G), an amount equal to the sum of
29 all amounts disallowed as deductions by (i) Sections
30 171(a) (2), and 265(2) of the Internal Revenue Code of
31 1954, as now or hereafter amended, and all amounts of
32 expenses allocable to interest and disallowed as
33 deductions by Section 265(1) of the Internal Revenue
34 Code, as now or hereafter amended; and (ii) for taxable
35 years ending on or after August 13, 1999, Sections
36 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the

1 Internal Revenue Code; the provisions of this
2 subparagraph are exempt from the provisions of Section
3 250;

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

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

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

27 (N) 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 (O) For taxable years 2001 and thereafter, for the
33 taxable year in which the bonus depreciation deduction
34 (30% of the adjusted basis of the qualified property)
35 is taken on the taxpayer's federal income tax return
36 under subsection (k) of Section 168 of the Internal

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

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

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

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

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

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

30 (Q) The amount of (i) any interest income (net of
31 the deductions allocable thereto) taken into account
32 for the taxable year with respect to a transaction with
33 a taxpayer that is required to make an addition
34 modification with respect to such transaction under
35 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
36 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed

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

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

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

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

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

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

36 (A) Certain life insurance companies. In the case

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

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

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

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

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

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

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

1 a Subchapter S corporation for which there is in effect
2 an election for the taxable year under Section 1362 of
3 the Internal Revenue Code, the taxable income of such
4 corporation determined in accordance with Section
5 1363(b) of the Internal Revenue Code, except that
6 taxable income shall take into account those items
7 which are required by Section 1363(b)(1) of the
8 Internal Revenue Code to be separately stated; and (ii)
9 a Subchapter S corporation for which there is in effect
10 a federal election to opt out of the provisions of the
11 Subchapter S Revision Act of 1982 and have applied
12 instead the prior federal Subchapter S rules as in
13 effect on July 1, 1982, the taxable income of such
14 corporation determined in accordance with the federal
15 Subchapter S rules as in effect on July 1, 1982; and

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

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

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

4 (f) Valuation limitation amount.

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

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

13 (B) The lesser of (i) the sum of the pre-August 1,
14 1969 appreciation amounts (to the extent consisting of
15 capital gain) for all property in respect of which such
16 gain was reported for federal income tax purposes for
17 the taxable year, or (ii) the net capital gain for the
18 taxable year, reduced in either case by any amount of
19 such gain included in the amount determined under
20 subsection (a) (2) (F) or (c) (2) (H).

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

22 (A) If the fair market value of property referred
23 to in paragraph (1) was readily ascertainable on August
24 1, 1969, the pre-August 1, 1969 appreciation amount for
25 such property is the lesser of (i) the excess of such
26 fair market value over the taxpayer's basis (for
27 determining gain) for such property on that date
28 (determined under the Internal Revenue Code as in
29 effect on that date), or (ii) the total gain realized
30 and reportable for federal income tax purposes in
31 respect of the sale, exchange or other disposition of
32 such property.

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

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

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

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

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

23 (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,
24 eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;
25 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.
26 7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)

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

29 (35 ILCS 105/12) (from Ch. 120, par. 439.12)

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

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

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

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

20 (35 ILCS 110/12) (from Ch. 120, par. 439.42)

21 Sec. 12. Applicability of Retailers' Occupation Tax Act and
22 Uniform Penalty and Interest Act. All of the provisions of
23 Sections 1d, 1e, 1f, 1i, 1j, 1j.1, 1k, 1m, 1n, 1o, 2-54, 2a,
24 2b, 2c, 3 (except as to the disposition by the Department of
25 the money collected under this Act), 4 (except that the time
26 limitation provisions shall run from the date when gross
27 receipts are received), 5 (except that the time limitation
28 provisions on the issuance of notices of tax liability shall
29 run from the date when the tax is due rather than from the date
30 when gross receipts are received and except that in the case of
31 a failure to file a return required by this Act, no notice of
32 tax liability shall be issued on and after July 1 and January 1
33 covering tax due with that return during any month or period
34 more than 6 years before that July 1 or January 1,

1 respectively), 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5j, 5k, 5l, 7, 8, 9,
2 10, 11 and 12 of the Retailers' Occupation Tax Act which are
3 not inconsistent with this Act, and Section 3-7 of the Uniform
4 Penalty and Interest Act, shall apply, as far as practicable,
5 to the subject matter of this Act to the same extent as if such
6 provisions were included herein.

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

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

10 (35 ILCS 115/12) (from Ch. 120, par. 439.112)

11 Sec. 12. All of the provisions of Sections 1d, 1e, 1f, 1i,
12 1j, 1j.1, 1k, 1m, 1n, 1o, 2-54, 2a, 2b, 2c, 3 (except as to the
13 disposition by the Department of the tax collected under this
14 Act), 4 (except that the time limitation provisions shall run
15 from the date when the tax is due rather than from the date
16 when gross receipts are received), 5 (except that the time
17 limitation provisions on the issuance of notices of tax
18 liability shall run from the date when the tax is due rather
19 than from the date when gross receipts are received), 5a, 5b,
20 5c, 5d, 5e, 5f, 5g, 5j, 5k, 5l, 7, 8, 9, 10, 11 and 12 of the
21 "Retailers' Occupation Tax Act" which are not inconsistent with
22 this Act, and Section 3-7 of the Uniform Penalty and Interest
23 Act shall apply, as far as practicable, to the subject matter
24 of this Act to the same extent as if such provisions were
25 included herein.

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

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

29 (35 ILCS 120/2-54 new)

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

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

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

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

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

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

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

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

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

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

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

4 The provisions of this Section are exempt from Section
5 2-70.

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

8 (35 ILCS 200/18-170)

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

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

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

22 (Source: P.A. 89-126, eff. 7-11-95; 89-671, eff. 8-14-96;
23 90-258, eff. 7-30-97.)

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

26 (415 ILCS 5/58.13)

27 Sec. 58.13. Municipal Brownfields Redevelopment Grant
28 Program.

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

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

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

12 (A) problem statement and needs assessment;

13 (B) community-based planning and involvement;

14 (C) implementation planning; and

15 (D) long-term benefits and sustainability.

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

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

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

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

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

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

21 (415 ILCS 5/58.14)

22 Sec. 58.14. Environmental Remediation Tax Credit review.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ARTICLE 900.

2 SEVERABILITY; EFFECTIVE DATE

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

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