SENATE JOURNAL

STATE OF ILLINOIS

NINETY-THIRD GENERAL ASSEMBLY

113TH LEGISLATIVE DAY

THURSDAY, MAY 20, 2004

10:12 O'CLOCK A.M.

NO. 113
[May 20, 2004]

SENATE
Daily Journal Index
113th Legislative Day

The Senate met pursuant to adjournment.
Senator James DeLeo, Chicago, Illinois, presiding.
Prayer by Pastor Howard Bell, Clinton United Methodist Church, Clinton, Illinois.
Senator Link led the Senate in the Pledge of Allegiance.

The Journal of Wednesday, May 19, 2004, was being read when on motion of Senator Haine, further reading of same was dispensed with and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

JOINT ACTION MOTIONS FILED

The following Joint Action Motions to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Motion to Concur in House Amendment 1 to Senate Bill 1914
Motion to Concur in House Amendment 1 to Senate Bill 2327
Motion to Concur in House Amendment 1 to Senate Bill 2548
Motion to Concur in House Amendments 1 and 2 to Senate Bill 2607
Motion to Concur in House Amendment 1 to Senate Bill 2665
Motion to Concur in House Amendment 1 to Senate Bill 2731
Motion to Concur in House Amendment 1 to Senate Bill 2757
Motion to Concur in House Amendments 1 and 2 to Senate Bill 2845

PRESENTATION OF RESOLUTION

Senator Collins offered the following Senate Joint Resolution, which was referred to the Committee on Rules:

SENATE JOINT RESOLUTION NO. 81

RESOLVED, BY THE SENATE OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that the Commission on Opportunity in State Public Construction, created by Senate Joint Resolution 36 of the 93rd General Assembly, shall deliver its report to the Governor and the General Assembly by January 12, 2005 (rather than June 30, 2004 as provided in Senate Joint Resolution 36); and be it further

RESOLVED, That a suitable copy of this resolution be delivered to the Governor, the Attorney General, the Director of the Capital Development Board, and the Secretary of Transportation.

READING OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator Crotty, **Senate Bill No. 2791**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 50; Nays 4.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Sieben
Brady	Geo-Karis	Meeks	Silverstein
Burzynski	Haine	Munoz	Sullivan, D.
Clayborne	Halvorson	Obama	Sullivan, J.
Collins	Harmon	Peterson	Trotter

Cronin	Hendon	Petka	Viverito
Crotty	Hunter	Radogno	Walsh
Cullerton	Jacobs	Risinger	Welch
del Valle	Jones, W.	Ronen	Winkel
DeLeo	Lauzen	Roskam	Wojcik
Demuzio	Lightford	Sandoval	Mr. President
Dillard	Link	Schoenberg	
Forby	Maloney	Shadid	

The following voted in the negative:

Bomke	Luechtefeld
Jones, J.	Watson

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Hendon, **Senate Bill No. 2800**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 57; Nays None; Present 1.

The following voted in the affirmative:

Althoff	Geo-Karis	Obama	Soden
Bomke	Haine	Peterson	Sullivan, D.
Brady	Halvorson	Petka	Sullivan, J.
Burzynski	Hendon	Radogno	Syverson
Clayborne	Hunter	Rauschenberger	Trotter
Collins	Jacobs	Righter	Viverito
Cronin	Jones, J.	Risinger	Walsh
Crotty	Jones, W.	Ronen	Watson
Cullerton	Lauzen	Roskam	Welch
del Valle	Lightford	Rutherford	Winkel
DeLeo	Link	Sandoval	Wojcik
Demuzio	Luechtefeld	Schoenberg	Mr. President
Dillard	Maloney	Shadid	
Forby	Martinez	Sieben	
Garrett	Munoz	Silverstein	

The following voted present:

Harmon

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

HOUSE BILL RECALLED

On motion of Senator Silverstein, **House Bill No. 2220** was recalled from the order of third reading to the order of second reading.

Senator Silverstein offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. ___1___. Amend House Bill 2220 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Public Aid Code is amended by changing Section 5-5.4 as follows:

(305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

Sec. 5-5.4. Standards of Payment - Department of Public Aid. The Department of Public Aid shall develop standards of payment of skilled nursing and intermediate care services in facilities providing such services under this Article which:

(1) Provide for the determination of a facility's payment for skilled nursing and intermediate care services on a prospective basis. The amount of the payment rate for all nursing facilities certified by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities, Long Term Care for Under Age 22 facilities, Skilled Nursing facilities, or Intermediate Care facilities under the medical assistance program shall be prospectively established annually on the basis of historical, financial, and statistical data reflecting actual costs from prior years, which shall be applied to the current rate year and updated for inflation, except that the capital cost element for newly constructed facilities shall be based upon projected budgets. The annually established payment rate shall take effect on July 1 in 1984 and subsequent years. No rate increase and no update for inflation shall be provided on or after July 1, 1994 and before July 1, 2004, unless specifically provided for in this Section.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 1998 shall include an increase of 3%. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 1998 shall include an increase of 3% plus $1.10 per resident-day, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 1999 shall include an increase of 1.6% plus $3.00 per resident-day, as defined by the Department. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 1999 shall include an increase of 1.6% and, for services provided on or after October 1, 1999, shall be increased by $4.00 per resident-day, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 2000 shall include an increase of 2.5% per resident-day, as defined by the Department. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 2000 shall include an increase of 2.5% per resident-day, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, a new payment methodology must be implemented for the nursing component of the rate effective July 1, 2003. The Department of Public Aid shall develop the new payment methodology using the Minimum Data Set (MDS) as the instrument to collect information concerning nursing home resident condition necessary to compute the rate. The Department of Public Aid shall develop the new payment methodology to meet the unique needs of Illinois nursing home residents while remaining subject to the appropriations provided by the General Assembly. A transition period from the payment methodology in effect on June 30, 2003 to the payment methodology in effect on July 1, 2003 shall be provided for a period not exceeding 2 years after implementation of the new payment methodology as follows:

(A) For a facility that would receive a lower nursing component rate per patient day under the new system than the facility received effective on the date immediately preceding the date that the Department implements the new payment methodology, the nursing component rate per patient day for the facility shall be held at the level in effect on the date immediately preceding the date that the Department implements the new payment methodology until a higher nursing component rate of reimbursement is achieved by that facility.

(B) For a facility that would receive a higher nursing component rate per patient day under the payment methodology in effect on July 1, 2003 than the facility received effective on the date immediately preceding the date that the Department implements the new payment methodology,

the nursing component rate per patient day for the facility shall be adjusted.

(C) Notwithstanding paragraphs (A) and (B), the nursing component rate per patient day for the facility shall be adjusted subject to appropriations provided by the General Assembly.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on March 1, 2001 shall include a statewide increase of 7.85%, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on April 1, 2002 shall include a statewide increase of 2.0%, as defined by the Department. This increase terminates on July 1, 2002; beginning July 1, 2002 these rates are reduced to the level of the rates in effect on March 31, 2002, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the rates taking effect on July 1, 2001 shall be computed using the most recent cost reports on file with the Department of Public Aid no later than April 1, 2000, updated for inflation to January 1, 2001. For rates effective July 1, 2001 only, rates shall be the greater of the rate computed for July 1, 2001 or the rate effective on June 30, 2001.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the Illinois Department shall determine by rule the rates taking effect on July 1, 2002, which shall be 5.9% less than the rates in effect on June 30, 2002.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the Illinois Department shall determine by rule the rates taking effect on July 1, 2003, which shall be 3.0% less than the rates in effect on June 30, 2002. This rate shall take effect only upon approval and implementation of the payment methodologies required under Section 5A-12.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or as long-term care facilities for residents under 22 years of age, the rates taking effect on July 1, 2003 shall include a statewide increase of 4%, as defined by the Department.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, effective July 1, 2004, facility rates shall be increased by the difference between (i) a facility's per diem property, liability, and malpractice insurance costs as reported in the cost report filed with the Department of Public Aid and used to establish rates effective July 1, 2001 and (ii) those same costs as reported in the facility's 2002 cost report. These costs shall be passed through to the facility without caps or limitations, except for adjustments required under normal auditing procedures.

Rates established effective each July 1 shall govern payment for services rendered throughout that fiscal year, except that rates established on July 1, 1996 shall be increased by 6.8% for services provided on or after January 1, 1997. Such rates will be based upon the rates calculated for the year beginning July 1, 1990, and for subsequent years thereafter until June 30, 2001 shall be based on the facility cost reports for the facility fiscal year ending at any point in time during the previous calendar year, updated to the midpoint of the rate year. The cost report shall be on file with the Department no later than April 1 of the current rate year. Should the cost report not be on file by April 1, the Department shall base the rate on the latest cost report filed by each skilled care facility and intermediate care facility, updated to the midpoint of the current rate year. In determining rates for services rendered on and after July 1, 1985, fixed time shall not be computed at less than zero. The Department shall not make any alterations of regulations which would reduce any component of the Medicaid rate to a level below what that component would have been utilizing in the rate effective on July 1, 1984.

(2) Shall take into account the actual costs incurred by facilities in providing services for recipients of skilled nursing and intermediate care services under the medical assistance program.

(3) Shall take into account the medical and psycho-social characteristics and needs of the patients.

(4) Shall take into account the actual costs incurred by facilities in meeting licensing and certification standards imposed and prescribed by the State of Illinois, any of its political subdivisions or municipalities and by the U.S. Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

The Department of Public Aid shall develop precise standards for payments to reimburse nursing facilities for any utilization of appropriate rehabilitative personnel for the provision of rehabilitative services which is authorized by federal regulations, including reimbursement for services provided by

qualified therapists or qualified assistants, and which is in accordance with accepted professional practices. Reimbursement also may be made for utilization of other supportive personnel under appropriate supervision.
(Source: P.A. 92-10, eff. 6-11-01; 92-31, eff. 6-28-01; 92-597, eff. 6-28-02; 92-651, eff. 7-11-02; 92-848, eff. 1-1-03; 93-20, eff. 6-20-03; 93-649, eff. 1-8-04; 93-659, eff. 2-3-04; revised 2-3-04.)

Section 99. Effective date. This Act takes effect July 1, 2004.".

The motion prevailed.
And the amendment was adopted and ordered printed
There being no further amendments, the bill, as amended, was ordered to a third reading.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Silverstein, **House Bill No. 2220**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Geo-Karis	Meeks	Sieben
Bomke	Haine	Munoz	Silverstein
Brady	Halvorson	Obama	Soden
Burzynski	Harmon	Peterson	Sullivan, D.
Clayborne	Hendon	Petka	Sullivan, J.
Collins	Hunter	Radogno	Syverson
Cronin	Jacobs	Rauschenberger	Trotter
Crotty	Jones, J.	Righter	Viverito
Cullerton	Jones, W.	Risinger	Walsh
del Valle	Lauzen	Ronen	Watson
DeLeo	Lightford	Roskam	Welch
Demuzio	Link	Rutherford	Winkel
Dillard	Luechtefeld	Sandoval	Wojcik
Forby	Maloney	Schoenberg	Mr. President
Garrett	Martinez	Shadid	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

HOUSE BILL RECALLED

On motion of Senator Shadid, **House Bill No. 4283** was recalled from the order of third reading to the order of second reading.

Senator Shadid offered the following amendment and moved its adoption:

AMENDMENT NO. 3

AMENDMENT NO. __3__. Amend House Bill 4283, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Raffles Act is amended by adding Section 8.2 as follows:
(230 ILCS 15/8.2 new)

Sec. 8.2. Exemption for certain charitable institutions.

(a) A charitable institution is not subject to the licensing provisions of subsection (a) of Section 2, items (1), (2), (3), (4), and (5) of Section 3, and the restrictions on the conduct of raffles imposed under item (5) of Section 4 if (i) the charitable institution is organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation of the institution and is exempt from federal income taxation under Section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code, (ii) the net proceeds from raffles conducted by the charitable institution under this Act are used by the organization for charitable, scientific, or educational purposes related to the charitable institution, and (iii) the charitable institution obtains a license from the Department of Revenue under subsection (b).

(b) The Department of Revenue shall, upon application therefor on forms prescribed by that Department, and upon the receipt of an annual license fee of $300, which shall be collected by the host county and from which $200 shall be retained by the host county and $100 shall be paid by the host county to the Department of Revenue, and upon receipt by the Department of Revenue of a written finding from the host county that the applicant is a charitable institution that meets the qualifications in items (i) and (ii) of subsection (a), issue a license authorizing the charitable institution to conduct raffles as provided in this Section. The Department of Revenue shall act on a license application within 30 days after the Department receives the application, fee, and written determination from the host county required under this subsection. A license issued under this subsection (b) shall be valid for one year. The Department of Revenue shall deposit the portion of the fees paid to it under this Section into the General Revenue Fund.

(c) All raffle tickets sold by a licensee under this Section must have the name of the host county, the name of the licensee, and the license number of the licensee printed on the ticket. A licensee under this Section may sell raffle tickets under this Section in any part of this State except (i) in any municipality that has adopted an ordinance prohibiting the conduct of raffles or the sale of raffle tickets within its boundaries or (ii) in any unincorporated portion of a county that has adopted an ordinance prohibiting the conduct of raffles or the sale of raffle tickets within the unincorporated portions within its boundaries. The Department of Revenue shall provide by rule for limitations upon (1) the aggregate retail value of all prizes or merchandise awarded by a licensee under this Section in a single raffle, (2) the maximum retail value of each prize awarded by a licensee under this Section in a single raffle, (3) the maximum price that may be charged for each raffle chance issued or sold under this Section, and (4) the maximum number of days during which chances may be issued or sold under this Section.

(d) Upon notification from the host county of a violation of this Act, the Department of Revenue may suspend or revoke licenses issued under this Section for any violation of this Act. The Department of Revenue shall adopt rules concerning the proper form and manner of the notification required under this subsection.

(e) For a charitable organization that conducts raffles under this Section, all references in Sections 5 and 6 of this Act to a licensing authority or a licensing unit of local government mean the host county.

(f) In addition to the requirements set forth in this Section, a charitable institution licensed by the Department of Revenue under this Section must meet all other requirements established by the Department by rule.

(g) A host county shall provide all information requested by the Department of Revenue concerning the conduct of raffles under this Section to the Department upon request by the Department.

(h) For the purpose of this Section, the term "host county" means the county in which the winning chance for a raffle conducted under a license issued under this Section is determined and the term "Department" means the Department of Revenue.

Section 99. Effective date. This Act takes effect upon becoming law.".

The motion prevailed.

And the amendment was adopted and ordered printed

There being no further amendments, the bill, as amended, was ordered to a third reading.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Shadid, **House Bill No. 4283**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 54; Nays 3.

The following voted in the affirmative:

Althoff	Halvorson	Munoz	Sieben
Brady	Harmon	Obama	Silverstein
Clayborne	Hendon	Peterson	Soden
Cronin	Hunter	Petka	Sullivan, J.
Crotty	Jacobs	Radogno	Syverson
Cullerton	Jones, J.	Rauschenberger	Trotter
del Valle	Jones, W.	Righter	Viverito
DeLeo	Lauzen	Risinger	Walsh
Demuzio	Lightford	Ronen	Watson
Dillard	Link	Roskam	Welch
Forby	Luechtefeld	Rutherford	Wojcik
Garrett	Maloney	Sandoval	Mr. President
Geo-Karis	Martinez	Schoenberg	
Haine	Meeks	Shadid	

The following voted in the negative:

Bomke
Sullivan, D.
Winkel

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

On motion of Senator Link, **House Bill No. 4976**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Geo-Karis	Meeks	Sieben
Bomke	Haine	Munoz	Silverstein
Brady	Halvorson	Obama	Soden
Burzynski	Harmon	Peterson	Sullivan, D.
Clayborne	Hendon	Petka	Sullivan, J.
Collins	Hunter	Radogno	Syverson
Cronin	Jacobs	Rauschenberger	Trotter
Crotty	Jones, J.	Righter	Walsh
Cullerton	Jones, W.	Risinger	Watson
del Valle	Lauzen	Ronen	Welch
DeLeo	Lightford	Roskam	Winkel
Demuzio	Link	Rutherford	Wojcik
Dillard	Luechtefeld	Sandoval	Mr. President
Forby	Maloney	Schoenberg	
Garrett	Martinez	Shadid	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

Senator Halvorson asked and obtained unanimous consent to recess for the purpose of a Democrat caucus.

Senator Burzynski announced there would be a Republican caucus immediately upon recess.

REPORT FROM RULES COMMITTEE

Senator Viverito, Chairperson of the Committee on Rules, during its May 20, 2004 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Education: **Senate Amendment No. 1 to Senate Joint Resolution No. 75; Senate Amendment No. 5 to Senate Bill 3000.**

Executive: **Senate Amendment No. 2 to House Bill 851; Senate Amendment No. 1 to House Bill 913**.

Health and Human Services: **Senate Amendment No. 2 to House Bill 1659**.

Judiciary: **Senate Amendment No. 2 to House Bill 1020; Senate Amendment No. 1 to House Bill 1191**.

Licensed Activities: **Senate Amendment No. 2 to House Bill 3715**.

Local Government: **Senate Amendments numbered 1 and 2 to House Bill 843**.

Transportation: **Senate Amendment No. 5 to House Bill 2587**.

Senator Viverito, Chairperson of the Committee on Rules, during its May 20, 2004 meeting, reported the following Joint Action Motions have been assigned to the indicated Standing Committees of the Senate:

Executive: **Motion to Concur in House Amendment 1 to Senate Bill 1914; Motion to Concur in House Amendment 1 to Senate Bill 2148; Motion to Concur in House Amendment 1 to Senate Bill 2724**

Financial Institutions: **Motion to Concur in House Amendment 1 to Senate Bill 2710**

Health and Human Services: **Motion to Concur in House Amendment 1 to Senate Bill 1412; Motion to Concur in House Amendment 1 to Senate Bill 2424; Motion to Concur in House Amendment 1 to Senate Bill 2551; Motion to Concur in House Amendment 1 to Senate Bill 2940; Motion to Concur in House Amendment 1 to Senate Bill 3211**

Judiciary: **Motion to Concur in House Amendment 1 to Senate Bill 2165; Motion to Concur in House Amendment 1 to Senate Bill 2495; Motion to Concur in House Amendment 1 to Senate Bill 2982**

Labor and Commerce: **Motion to Concur in House Amendment 1 to Senate Bill 2665; Motion to Concur in House Amendment 1 to Senate Bill 2901**

Licensed Activities: **Motion to Concur in House Amendment 1 to Senate Bill 2254**

Local Government: **Motion to Concur in House Amendment 1 to Senate Bill 2158**

Senator Viverito, Chairperson of the Committee on Rules, during its May 20, 2004 meeting, reported the following Senate Resolution has been assigned to the indicated Standing Committee of the Senate:

Agriculture and Conservation: **Senate Resolution No. 500.**

At the hour of 11:05 o'clock a.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 12:55 o'clock p.m., the Senate resumed consideration of business.
Senator DeLeo, presiding.

JOINT ACTION MOTIONS FILED

The following Joint Action Motions to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Motion to Concur in House Amendment 1 to Senate Bill 2252
Motion to Concur in House Amendment 1 to Senate Bill 2377
Motion to Concur in House Amendment 2 to Senate Bill 2768

COMMITTEE MEETING ANNOUNCEMENTS

The Chair announced the following committees will meet today:

The Education Committee will meet in Room 212 Capitol Building, at 1:00 o'clock p.m.

The Local Government Committee will meet in Room A-1 Stratton Building, at 1:00 p.m.

The Transportation Committee will meet in Room A-1 Stratton Building, at 2:00 p.m.

The Judiciary Committee will meet in Room 400 Capitol Building, at 2:00 p.m.

The Health and Human Services Committee will meet in Room 400 Capitol Building, at 3:00 p.m.

At the hour of 1:00 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 3:55 o'clock p.m., the Senate resumed consideration of business.
Senator DeLeo, presiding.

LEGISLATIVE MEASURES FILED

The following Floor amendments to the House Bills listed below have been filed with the Secretary, and referred to the Committee on Rules:

Senate Amendment No. 1 to House Bill 779
Senate Amendment No. 1 to House Bill 966
Senate Amendment No. 1 to House Bill 1111

The following Floor amendment to the Senate Resolution listed below has been filed with the Secretary, and referred to the Committee on Rules:

Senate Amendment No. 1 to Senate Resolution 500

REPORTS FROM STANDING COMMITTEES

Senator Haine, Chairperson of the Committee on Local Government, to which was referred the following Senate floor amendments, reported that the Committee recommends that they be approved for consideration:

Senate Amendments numbered 1 and 2 to House Bill 843

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Haine, Chairperson of the Committee on Local Government, to which was referred the Motion to concur with House Amendment to the following Senate Bill, reported that the Committee recommends that it be approved for consideration:

Motion to Concur in House Amendment 1 to Senate Bill 2158

Under the rules, the foregoing Motion is eligible for consideration by the Senate.

Senators Cullerton and Dillard, Co-Chairpersons of the Committee on Judiciary, to which was referred the following Senate floor amendments, reported that the Committee recommends that they be adopted:

Senate Amendment No. 2 to House Bill 1020
Senate Amendment No. 1 to House Bill 1191

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senators Cullerton and Dillard, Co-Chairpersons of the Committee on Judiciary, to which was referred the Motions to concur with House Amendments to the following Senate Bills, reported that the Committee recommends that they be approved for consideration:

Motion to Concur in House Amendment 1 to Senate Bill 2165
Motion to Concur in House Amendment 1 to Senate Bill 2495
Motion to Concur in House Amendment 1 to Senate Bill 2982

Under the rules, the foregoing Motions are eligible for consideration by the Senate.

Senator del Valle, Chairperson of the Committee on Education, to which was referred the following Senate floor amendments, reported that the Committee recommends that it be adopted:

Senate Amendment No. 1 to Senate Joint Resolution 75
Senate Amendment No. 5 to Senate Bill 3000

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Shadid, Chairperson of the Committee on Transportation, to which was referred the following Senate floor amendment, reported that the Committee recommends that it be adopted:

Senate Amendment No. 5 to House Bill 2587

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Obama, Chairperson of the Committee on Health and Human Services, to which was referred the following Senate floor amendment, reported that the Committee recommends that it be adopted:

Senate Amendment No. 2 to House Bill 1659

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Obama, Chairperson of the Committee on Health and Human Services, to which was referred the Motions to concur with House Amendments to the following Senate Bills, reported that the Committee recommends that they be adopted:

Motion to Concur in House Amendment 1 to Senate Bill 1412
Motion to Concur in House Amendment 1 to Senate Bill 2424
Motion to Concur in House Amendment 1 to Senate Bill 2551
Motion to Concur in House Amendment 1 to Senate Bill 2940
Motion to Concur in House Amendment 1 to Senate Bill 3211

Under the rules, the foregoing Motions are eligible for consideration by the Senate.

MESSAGE FROM THE GOVERNOR

Message for the Governor by Joseph B. Handley
Deputy Chief of Staff for Legislative Affairs

May 20, 2004

Mr. President,

The Governor directs me to lay before the Senate the following Message:

STATE OF ILLINOIS
EXECUTIVE DEPARTMENT

To the Honorable

Members of the Senate
Ninety-Third General Assembly

I have nominated and appointed the following named persons to the offices enumerated below and respectfully ask concurrence in and confirmation of these appointments of your Honorable body.

EXECUTIVE ETHICS COMMISSION

To be a Member of the Executive Ethics Commission for a term commencing May 14, 2004 and ending June 30, 2008:

Ellen C. Craig of Chicago
Salaried

To be a Member of the Executive Ethics Commission for a term commencing May 14, 2004 and ending June 30, 2007:

John C. Cusick of Chicago
Salaried

INVESTMENT, STATE BOARD OF

To be a Member of the State Board of Investment for a term commencing May 14, 2004 and ending January 17, 2005:

Ronald E. Powell of Mundeline
Non- Salaried

Rod Blagojevich
GOVERNOR

Under the rules, the foregoing Message was referred to the Committee on Executive Appointments.

MESSAGES FROM THE HOUSE

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:
SENATE BILL NO. 132
A bill for AN ACT in relation to county government.
Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:
House Amendment No. 1 to SENATE BILL NO. 132
House Amendment No. 2 to SENATE BILL NO. 132
Passed the House, as amended, May 20, 2004.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend Senate Bill 132 by replacing everything after the enacting clause with the following:

"Section 5. The Counties Code is amended by adding Division 1-7 to Article 1 as follows:
(55 ILCS 5/Art. 1 Div. 1-7 heading new)
Ineligibility for Elected County Office
(55 ILCS 5/1-7005 new)
Sec. 1-7005. Ineligibility for elected county office. A person is not eligible for an elective county office if that person is in arrears in the payment of a tax or other indebtedness due to the county or has been convicted in any court located in the United States of any infamous crime, bribery, perjury, or other felony.

Section 99. Effective date. This Act takes effect upon becoming law.".

AMENDMENT NO. 2

AMENDMENT NO. 2. Amend Senate Bill 132, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Counties Code is amended by changing Section 3-3013 as follows:
(55 ILCS 5/3-3013) (from Ch. 34, par. 3-3013)
Sec. 3-3013. Preliminary investigations; blood and urine analysis; summoning jury. Every coroner, whenever, as soon as he knows or is informed that the dead body of any person is found, or lying within his county, whose death is suspected of being:
(a) A sudden or violent death, whether apparently suicidal, homicidal or accidental, including but not limited to deaths apparently caused or contributed to by thermal, traumatic, chemical, electrical or radiational injury, or a complication of any of them, or by drowning or suffocation, or as a result of domestic violence as defined in the Illinois Domestic Violence Act of 1986;
(b) A maternal or fetal death due to abortion, or any death due to a sex crime or a crime against nature;
(c) A death where the circumstances are suspicious, obscure, mysterious or otherwise unexplained or where, in the written opinion of the attending physician, the cause of death is not determined;
(d) A death where addiction to alcohol or to any drug may have been a contributory cause; or
(e) A death where the decedent was not attended by a licensed physician;
shall go to the place where the dead body is, and take charge of the same and shall make a preliminary investigation into the circumstances of the death. In the case of death without attendance by a licensed physician the body may be moved with the coroner's consent from the place of death to a mortuary in the

same county. Coroners in their discretion shall notify such physician as is designated in accordance with Section 3-3014 to attempt to ascertain the cause of death, either by autopsy or otherwise.

In cases of accidental death involving a motor vehicle in which the decedent was (1) the operator or a suspected operator of a motor vehicle, or (2) a pedestrian 16 years of age or older, the coroner shall require that a blood specimen of at least 30 cc., and if medically possible a urine specimen of at least 30 cc. or as much as possible up to 30 cc., be withdrawn from the body of the decedent in a timely fashion after ~~within 6 hours of~~ the accident causing his death, by such physician as has been designated in accordance with Section 3-3014, or by the coroner or deputy coroner or a qualified person designated by ~~at the direction of~~ such physician , coroner, or deputy coroner. If the county does not maintain laboratory facilities for making such analysis, the blood and urine so drawn shall be sent to the Department of State Police or any other accredited or State-certified laboratory for analysis ~~, when necessary,~~ of the alcohol, carbon monoxide, and dangerous or narcotic drug content of such blood and urine specimens. Each specimen submitted shall be accompanied by pertinent information concerning the decedent upon a form prescribed by such laboratory. ~~Department. If the analysis is performed in county laboratory facilities, the coroner shall forward the results of each analysis and pertinent information concerning the decedent to the Department of Public Health upon a form prescribed by such Department. The coroner causing the blood and urine to be withdrawn shall be notified of the results of any analysis made by the Department of State Police and the Department of Public Health shall keep a record of the results of all such examinations to be used for statistical purposes. The cumulative results of the examinations, without identifying the individuals involved, shall be disseminated and made public by the Department of Public Health.~~ Any person drawing blood and urine and any person making any examination of the blood and urine under the terms of this Division shall be immune from all liability, civil or criminal, that might otherwise be incurred or imposed. ~~The coroner shall be paid a fee of $10 by the Department of Public Health for each acceptable set of blood and urine specimens sent to the Department of State Police forensic science laboratory accompanied by the required form or for each report of analysis performed by a county laboratory furnished upon the required form. Upon collection, the coroner shall pay the fee over to the county treasurer for deposit in the general fund of the county.~~

In all other cases coming within the jurisdiction of the coroner and referred to in subparagraphs (a) through (e) above, blood, and whenever possible, urine samples shall be analyzed for the presence of alcohol and other drugs. When the coroner suspects that drugs may have been involved in the death, either directly or indirectly, a toxicological examination shall be performed which may include analyses of blood, urine, bile, gastric contents and other tissues. When the coroner suspects a death is due to toxic substances, other than drugs, the coroner shall consult with the toxicologist prior to collection of samples. Information submitted to the toxicologist shall include information as to height, weight, age, sex and race of the decedent as well as medical history, medications used by and the manner of death of decedent.

Except in counties that have a jury commission, in cases of apparent suicide, homicide, or accidental death or in other cases, within the discretion of the coroner, the coroner shall summon 8 persons of lawful age from those persons drawn for petit jurors in the county. The summons shall command these persons to present themselves personally at such a place and time as the coroner shall determine, and may be in any form which the coroner shall determine and may incorporate any reasonable form of request for acknowledgement which the coroner deems practical and provides a reliable proof of service. The summons may be served by first class mail. From the 8 persons so summoned, the coroner shall select 6 to serve as the jury for the inquest. Inquests may be continued from time to time, as the coroner may deem necessary. The 6 jurors selected in a given case may view the body of the deceased. If at any continuation of an inquest one or more of the original jurors shall be unable to continue to serve, the coroner shall fill the vacancy or vacancies. A juror serving pursuant to this paragraph shall receive compensation from the county at the same rate as the rate of compensation that is paid to petit or grand jurors in the county. The coroner shall furnish to each juror without fee at the time of his discharge a certificate of the number of days in attendance at an inquest, and, upon being presented with such certificate, the county treasurer shall pay to the juror the sum provided for his services.

In counties which have a jury commission, in cases of apparent suicide or homicide or of accidental death, the coroner shall, and in other cases in his discretion may, conduct an inquest. The jury commission shall provide at least 8 jurors to the coroner, from whom the coroner shall select any 6 to serve as the jury for the inquest. Inquests may be continued from time to time as the coroner may deem necessary. The 6 jurors originally chosen in a given case may view the body of the deceased. If at any continuation of an inquest one or more of the 6 jurors originally chosen shall be unable to continue to serve, the coroner shall fill the vacancy or vacancies. At the coroner's discretion, additional jurors to fill such vacancies shall be supplied by the jury commission. A juror serving pursuant to this paragraph in

such county shall receive compensation from the county at the same rate as the rate of compensation that is paid to petit or grand jurors in the county.

In addition, in every case in which domestic violence is determined to be a contributing factor in a death, the coroner shall report the death to the Department of State Police.

All deaths in State institutions and all deaths of wards of the State in private care facilities or in programs funded by the Department of Human Services under its powers relating to mental health and developmental disabilities or alcoholism and substance abuse or funded by the Department of Children and Family Services shall be reported to the coroner of the county in which the facility is located. If the coroner has reason to believe that an investigation is needed to determine whether the death was caused by maltreatment or negligent care of the ward of the State, the coroner may conduct a preliminary investigation of the circumstances of such death as in cases of death under circumstances set forth in paragraphs (a) through (e) of this Section.
(Source: P.A. 91-521, eff. 1-1-00.)".

Under the rules, the foregoing **Senate Bill No. 132**, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 827

A bill for AN ACT in relation to insurance.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 827

Passed the House, as amended, May 20, 2004.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1

AMENDMENT NO. __1__. Amend Senate Bill 827 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Insurance Code is amended by changing Section 356z.4 as follows:
(215 ILCS 5/356z.4)

Sec. 356z.4. Coverage for contraceptives.

(a) An individual or group policy of accident and health insurance amended, delivered, issued, or renewed in this State after the effective date of this amendatory Act of the 93rd General Assembly that provides coverage for outpatient services and outpatient prescription drugs or devices must provide coverage for the insured and any dependent of the insured covered by the policy for all outpatient contraceptive services and all outpatient contraceptive drugs and devices approved by the Food and Drug Administration. Coverage required under this Section may not impose any deductible, coinsurance, waiting period, or other cost-sharing or limitation that is greater than that required for any outpatient service or outpatient prescription drug or device otherwise covered by the policy.

(b) As used in this Section, "outpatient contraceptive service" means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods (including natural family planning) to prevent an unintended pregnancy.

(c) Nothing in this Section shall be construed to require an insurance company to cover services related to an abortion as the term "abortion" is defined in the Illinois Abortion Law of 1975.

(d) Nothing in this Section shall be construed to require an insurance company to cover services related to permanent sterilization that requires a surgical procedure.

(e) The services, drugs, and devices required to be covered under this Section are not required to be contained in any policy or plan issued to or by a religious institution or organization or to or by an entity sponsored by a religious institution or organization that finds the services, drugs, and devices required to be covered under this Section to violate its religious and moral teachings and beliefs.
(Source: P.A. 93-102, eff. 1-1-04.)

Section 99. Effective date. This Act takes effect upon becoming law.".

Under the rules, the foregoing **Senate Bill No. 827**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 4099

A bill for AN ACT in relation to energy conservation.
Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 4099
Concurred in by the House, May 20, 2004.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 4403

A bill for AN ACT concerning vehicles.
Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 4403
Concurred in by the House, May 20, 2004.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 4481

A bill for AN ACT concerning public health.
Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 4481
Concurred in by the House, May 20, 2004.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 4558

A bill for AN ACT concerning public health.
Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 4558
Concurred in by the House, May 20, 2004.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 4566

A bill for AN ACT concerning minors.
Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 4566
Concurred in by the House, May 20, 2004.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 4788

A bill for AN ACT concerning criminal law.
Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 4788
Concurred in by the House, May 20, 2004.

MARK MAHONEY, Clerk of the House

CONSIDERATION OF RESOLUTION ON SECRETARY'S DESK

Senator del Valle moved that **Senate Joint Resolution No. 75**, on the Secretary's Desk, be taken up for immediate consideration.
The motion prevailed.
Senator del Valle offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend Senate Joint Resolution 75 on page 1, by replacing lines 7 through 12 with the following:

"RESOLVED, BY THE SENATE OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that the waiver request made by Ridgeview CUSD 19 - McLean with respect to driver education, identified in the report filed by the State Board of Education as request WM100-3215, is approved for only one year and disapproved for the remaining 4 years; and be it further

RESOLVED, That each of the school district waiver requests identified below by school district name and by the identifying number and subject area of the waiver request as summarized in the report filed by the State Board of Education is disapproved:

(1) Summit SD 104 - Cook, WM100-3058, limitation of administrative cost;
(2) Rutland CCSD 230 - LaSalle, WM100-3142, limitation of administrative cost;
(3) Wallace CCSD 195 - LaSalle, WM100-3144, limitation of administrative cost;
(4) Waukegan CUSD 60 - Lake, WM100-3173-1, substitute teachers; and
(5) Steeleville CUSD 138 - Randolph, WM100-3232 (Appeal), certification.".

The motion prevailed and the amendment was adopted.

Senator del Valle moved that Senate Resolution No. 75, as amended, be adopted.
The motion prevailed.
And the resolution, as amended, was adopted.

SENATE BILL RECALLED

On motion of Senator del Valle, **Senate Bill No. 3000** was recalled from the order of third reading to the order of second reading.
Senator del Valle offered the following amendment and moved its adoption:

AMENDMENT NO. 5

AMENDMENT NO. 5. Amend Senate Bill 3000, AS AMENDED, with reference to page and

line numbers of Senate Amendment No. 4, as follows:

on page 4, line 31, by deleting "3-15.1,"; and

on page 11, by deleting lines 5 through 33; and

on page 12, by deleting lines 1 through 22; and

on page 13, line 32, by replacing "and" with "~~and~~"; and

on page 13, line 34, after "board", by inserting "; and (xv) State master contracts authorized under Article 28A of this Code"; and

on page 15, line 13, by deleting "The State"; and

on page 15, by deleting lines 14 through 34; and

on page 16, by deleting lines 1 through 5; and

on page 16, line 9, by replacing "must" with "may"; and

on page 16, by replacing lines 12 through 34 with the following:
"education purchasing entity."; and

on page 17, by deleting lines 1 through 10; and

on page 18, lines 26 and 27, by deleting ", administer, and enforce; and

on page 19, line 8, by replacing "Sections 3-15.1 and" with "Section".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 5 was ordered engrossed; and the bill, as amended was ordered to a third reading.

READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator del Valle, **Senate Bill No. 3000**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 32; Nays 27.

The following voted in the affirmative:

Clayborne	Haine	Meeks	Trotter
Collins	Halvorson	Munoz	Viverito
Crotty	Harmon	Obama	Walsh
Cullerton	Hendon	Ronen	Welch
del Valle	Hunter	Sandoval	Mr. President
DeLeo	Lightford	Schoenberg	
Demuzio	Link	Shadid	
Forby	Maloney	Silverstein	
Garrett	Martinez	Sullivan, J.	

The following voted in the negative:

Althoff	Jacobs	Radogno	Soden
Bomke	Jones, J.	Rauschenberger	Sullivan, D.
Brady	Jones, W.	Righter	Syverson
Burzynski	Lauzen	Risinger	Watson
Cronin	Luechtefeld	Roskam	Winkel
Dillard	Peterson	Rutherford	Wojcik
Geo-Karis	Petka	Sieben	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Jacobs, **Senate Bill No. 3002** was recalled from the order of third reading to the order of second reading.

Senator Jacobs offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. ___1___. Amend Senate Bill 3002 by replacing everything after the enacting clause with the following:

"Section 5. The State Employees Group Insurance Act of 1971 is amended by changing Sections 6.5 and 6.6 as follows:

(5 ILCS 375/6.5)

(Section scheduled to be repealed on July 1, 2004)

Sec. 6.5. Health benefits for TRS benefit recipients and TRS dependent beneficiaries.

(a) Purpose. It is the purpose of this amendatory Act of 1995 to transfer the administration of the program of health benefits established for benefit recipients and their dependent beneficiaries under Article 16 of the Illinois Pension Code to the Department of Central Management Services.

(b) Transition provisions. The Board of Trustees of the Teachers' Retirement System shall continue to administer the health benefit program established under Article 16 of the Illinois Pension Code through December 31, 1995. Beginning January 1, 1996, the Department of Central Management Services shall be responsible for administering a program of health benefits for TRS benefit recipients and TRS dependent beneficiaries under this Section. The Department of Central Management Services and the Teachers' Retirement System shall cooperate in this endeavor and shall coordinate their activities so as to ensure a smooth transition and uninterrupted health benefit coverage.

(c) Eligibility. All persons who were enrolled in the Article 16 program at the time of the transfer shall be eligible to participate in the program established under this Section without any interruption or delay in coverage or limitation as to pre-existing medical conditions. Eligibility to participate shall be determined by the Teachers' Retirement System. Eligibility information shall be communicated to the Department of Central Management Services in a format acceptable to the Department.

A TRS dependent beneficiary who is an unmarried child age 19 or over and mentally or physically disabled ~~handicapped~~ does not become ineligible to participate by reason of (i) becoming ineligible to be claimed as a dependent for Illinois or federal income tax purposes or (ii) receiving earned income, so long as those earnings are insufficient for the child to be fully self-sufficient.

(d) Coverage. The level of health benefits provided under this Section shall be similar to the level of benefits provided by the program previously established under Article 16 of the Illinois Pension Code.

Group life insurance benefits are not included in the benefits to be provided to TRS benefit recipients and TRS dependent beneficiaries under this Act.

The program of health benefits under this Section may include any or all of the benefit limitations, including but not limited to a reduction in benefits based on eligibility for federal medicare benefits, that are provided under subsection (a) of Section 6 of this Act for other health benefit programs under this Act.

(e) Insurance rates and premiums. The Director shall determine the insurance rates and premiums for TRS benefit recipients and TRS dependent beneficiaries, and shall present to the Teachers' Retirement System of the State of Illinois, by April 15 of each calendar year, the rate-setting methodology (including but not limited to utilization levels and costs) used to determine the amount of the health care

premiums.

For Fiscal Year 1996, the premium shall be equal to the premium actually charged in Fiscal Year 1995; in subsequent years, the premium shall never be lower than the premium charged in Fiscal Year 1995.

For Fiscal Year 2003, the premium shall not exceed 110% of the premium actually charged in Fiscal Year 2002.

For Fiscal Year 2004, the premium shall not exceed 112% of the premium actually charged in Fiscal Year 2003.

For Fiscal Year 2005, the premium shall not exceed a weighted average of 106.6% of the premium actually charged in Fiscal Year 2004.

For Fiscal Year 2006, the premium shall not exceed a weighted average of 109.1% of the premium actually charged in Fiscal Year 2005.

For Fiscal Year 2007, the premium shall not exceed a weighted average of 103.9% of the premium actually charged in Fiscal Year 2006.

For Fiscal Year 2008 and thereafter, the premium in each fiscal year shall not exceed 105% of the premium actually charged in the previous fiscal year.

Rates and premiums may be based in part on age and eligibility for federal medicare coverage. However, the cost of participation for a TRS dependent beneficiary who is an unmarried child age 19 or over and mentally or physically disabled ~~handicapped~~ shall not exceed the cost for a TRS dependent beneficiary who is an unmarried child under age 19 and participates in the same major medical or managed care program.

The cost of health benefits under the program shall be paid as follows:

(1) For a TRS benefit recipient selecting a managed care program, up to 75% of the total insurance rate shall be paid from the Teacher Health Insurance Security Fund. Effective with Fiscal Year 2007 and thereafter, for a TRS benefit recipient selecting a managed care program, 75% of the total insurance rate shall be paid from the Teacher Health Insurance Security Fund.

(2) For a TRS benefit recipient selecting the major medical coverage program, up to 50% of the total insurance rate shall be paid from the Teacher Health Insurance Security Fund if a managed care program is accessible, as determined by the Teachers' Retirement System. Effective with Fiscal Year 2007 and thereafter, for a TRS benefit recipient selecting the major medical coverage program, 50% of the total insurance rate shall be paid from the Teacher Health Insurance Security Fund if a managed care program is accessible, as determined by the Department of Central Management Services.

(3) For a TRS benefit recipient selecting the major medical coverage program, up to 75% of the total insurance rate shall be paid from the Teacher Health Insurance Security Fund if a managed care program is not accessible, as determined by the Teachers' Retirement System. Effective with Fiscal Year 2007 and thereafter, for a TRS benefit recipient selecting the major medical coverage program, 75% of the total insurance rate shall be paid from the Teacher Health Insurance Security Fund if a managed care program is not accessible, as determined by the Department of Central Management Services.

(3.1) For a TRS dependent beneficiary who is Medicare primary and enrolled in a managed care plan, or the major medical coverage program if a managed care plan is not available, 25% of the total insurance rate shall be paid from the Teacher Health Security Fund as determined by the Department of Central Management Services. For the purpose of this item (3.1), the term "TRS dependent beneficiary who is Medicare primary" means a TRS dependent beneficiary who is retired or does not have current employment status and is participating in Medicare Parts A and B.

(4) Except as otherwise provided in item (3.1), the ~~The~~ balance of the rate of insurance, including the entire premium of any coverage for TRS dependent beneficiaries that has been elected, shall be paid by deductions authorized by the TRS benefit recipient to be withheld from his or her monthly annuity or benefit payment from the Teachers' Retirement System; except that (i) if the balance of the cost of coverage exceeds the amount of the monthly annuity or benefit payment, the difference shall be paid directly to the Teachers' Retirement System by the TRS benefit recipient, and (ii) all or part of the balance of the cost of coverage may, at the school board's option, be paid to the Teachers' Retirement System by the school board of the school district from which the TRS benefit recipient retired, in accordance with Section 10-22.3b of the School Code. The Teachers' Retirement System shall promptly deposit all moneys withheld by or paid to it under this subdivision (e)(4) into the Teacher Health Insurance Security Fund. These moneys shall not be considered assets of the Retirement System.

(f) Financing. Beginning July 1, 1995, all revenues arising from the administration of the health

benefit programs established under Article 16 of the Illinois Pension Code or this Section shall be deposited into the Teacher Health Insurance Security Fund, which is hereby created as a nonappropriated trust fund to be held outside the State Treasury, with the State Treasurer as custodian. Any interest earned on moneys in the Teacher Health Insurance Security Fund shall be deposited into the Fund.

Moneys in the Teacher Health Insurance Security Fund shall be used only to pay the costs of the health benefit program established under this Section, including associated administrative costs, and the costs associated with the health benefit program established under Article 16 of the Illinois Pension Code, as authorized in this Section. Beginning July 1, 1995, the Department of Central Management Services may make expenditures from the Teacher Health Insurance Security Fund for those costs.

After other funds authorized for the payment of the costs of the health benefit program established under Article 16 of the Illinois Pension Code are exhausted and until January 1, 1996 (or such later date as may be agreed upon by the Director of Central Management Services and the Secretary of the Teachers' Retirement System), the Secretary of the Teachers' Retirement System may make expenditures from the Teacher Health Insurance Security Fund as necessary to pay up to 75% of the cost of providing health coverage to eligible benefit recipients (as defined in Sections 16-153.1 and 16-153.3 of the Illinois Pension Code) who are enrolled in the Article 16 health benefit program and to facilitate the transfer of administration of the health benefit program to the Department of Central Management Services.

(g) Contract for benefits. The Director shall by contract, self-insurance, or otherwise make available the program of health benefits for TRS benefit recipients and their TRS dependent beneficiaries that is provided for in this Section. The contract or other arrangement for the provision of these health benefits shall be on terms deemed by the Director to be in the best interest of the State of Illinois and the TRS benefit recipients based on, but not limited to, such criteria as administrative cost, service capabilities of the carrier or other contractor, and the costs of the benefits.

(g-5) Committee. A Teacher Retirement Insurance Program Committee shall be established, to consist of 10 persons appointed by the Governor.

The Committee shall convene at least 4 times each year, and shall consider and make recommendations on issues affecting the program of health benefits provided under this Section. Recommendations of the Committee shall be based on a consensus of the members of the Committee.

If the Teacher Health Insurance Security Fund experiences a deficit balance based upon the contribution and subsidy rates established in this Section and Section 6.6 for Fiscal Year 2008 or thereafter, the Committee shall make recommendations for adjustments to the funding sources established under these Sections.

(h) Continuation ~~and termination~~ of program. It is the intention of the General Assembly that the program of health benefits provided under this Section be maintained on an ongoing, affordable basis ~~. through June 30, 2004. The program of health benefits provided under this Section is terminated on July 1, 2004.~~

The program of health benefits provided under this Section may be amended by the State and is not intended to be a pension or retirement benefit subject to protection under Article XIII, Section 5 of the Illinois Constitution.

(i) Repeal. (Blank). ~~This Section is repealed on July 1, 2004.~~

(Source: P.A. 92-505, eff. 12-20-01; 92-862, eff. 1-3-03; revised 1-10-03.)

(5 ILCS 375/6.6)

(Section scheduled to be repealed on July 1, 2004)

Sec. 6.6. Contributions to the Teacher Health Insurance Security Fund.

(a) Beginning July 1, 1995, all active contributors of the Teachers' Retirement System (established under Article 16 of the Illinois Pension Code) who are not employees of a department as defined in Section 3 of this Act shall make contributions toward the cost of annuitant and survivor health benefits. These contributions shall be at the following rates: until January 1, 2002, 0.5% of salary; beginning January 1, 2002, 0.65% of salary; beginning July 1, 2003, 0.75% of salary; beginning July 1, 2005, 0.80% of salary; beginning July 1, 2007, a percentage of salary to be determined by the Department of Central Management Services by rule, which in each fiscal year shall not exceed 105% of the percentage of salary actually required to be paid in the previous fiscal year.

These contributions shall be deducted by the employer and paid to the System as service agent for the Department of Central Management Services. The System may use the same processes for collecting the contributions required by this subsection that it uses to collect contributions received from school districts and other covered employers under Sections 16-154 and 16-155 of the Illinois Pension Code.

An employer may agree to pick up or pay the contributions required under this subsection on behalf of the teacher; such contributions shall be deemed to have to have been paid by the teacher. Beginning January 1, 2002, if the employer does not directly pay the required member contribution, then the

employer shall reduce the member's salary by an amount equal to the required contribution and shall then pay the contribution on behalf of the member. This reduction shall not change the amounts reported as creditable earnings to the Teachers' Retirement System.

A person who purchases optional service credit under Article 16 of the Illinois Pension Code for a period after June 30, 1995 must also make a contribution under this subsection for that optional credit, at the rate provided in subsection (a), based on the salary used in computing the optional service credit, plus interest on this employee contribution. This contribution shall be collected by the System as service agent for the Department of Central Management Services. The contribution required under this subsection for the optional service credit must be paid in full before any annuity based on that credit begins.

(a-5) Beginning January 1, 2002, every employer of a teacher (other than an employer that is a department as defined in Section 3 of this Act) shall pay an employer contribution toward the cost of annuitant and survivor health benefits. These contributions shall be computed as follows:

(1) Beginning January 1, 2002 through June 30, 2003, the employer contribution shall be equal to 0.4% of each teacher's salary.

(2) Beginning July 1, 2003, the employer contribution shall be equal to 0.5% of each teacher's salary.

(3) Beginning July 1, 2005, the employer contribution shall be equal to 0.6% of each teacher's salary.

(4) Beginning July 1, 2007, the employer contribution shall be a percentage of each teacher's salary to be determined by the Department of Central Management Services by rule, which in each fiscal year shall not exceed 105% of the percentage of each teacher's salary actually required to be paid in the previous fiscal year.

These contributions shall be paid by the employer to the System as service agent for the Department of Central Management Services. The System may use the same processes for collecting the contributions required by this subsection that it uses to collect contributions received from school districts and other covered employers under the Illinois Pension Code.

The school district or other employing unit may pay these employer contributions out of any source of funding available for that purpose and shall forward the contributions to the System on the schedule established for the payment of member contributions.

(b) The Teachers' Retirement System shall promptly deposit all moneys collected under subsections (a) and (a-5) of this Section into the Teacher Health Insurance Security Fund created in Section 6.5 of this Act. The moneys collected under this Section shall be used only for the purposes authorized in Section 6.5 of this Act and shall not be considered to be assets of the Teachers' Retirement System. Contributions made under this Section are not transferable to other pension funds or retirement systems and are not refundable upon termination of service.

(c) On or before November 15 of each year, the Board of Trustees of the Teachers' Retirement System shall certify to the Governor, the Director of Central Management Services, and the State Comptroller its estimate of the total amount of contributions to be paid under subsection (a) of this Section 6.6 for the next fiscal year. The amount certified shall be decreased or increased each year by the amount that the actual active teacher contributions either fell short of or exceeded the estimate used by the Board in making the certification for the previous fiscal year. The certification shall include a detailed explanation of the methods and information that the Board relied upon in preparing its estimate. As soon as possible after the effective date of this amendatory Act of the 92nd General Assembly, the Board shall recalculate and recertify its certifications for fiscal years 2002 and 2003.

(d) Beginning in fiscal year 1996, on the first day of each month, or as soon thereafter as may be practical, the State Treasurer and the State Comptroller shall transfer from the General Revenue Fund to the Teacher Health Insurance Security Fund 1/12 of the annual amount appropriated for that fiscal year to the State Comptroller for deposit into the Teacher Health Insurance Security Fund under Section 1.3 of the State Pension Funds Continuing Appropriation Act.

(e) Except where otherwise specified in this Section, the definitions that apply to Article 16 of the Illinois Pension Code apply to this Section.

(f) (Blank). ~~This Section is repealed on July 1, 2004.~~

(Source: P.A. 92-505, eff. 12-20-01.)

Section 15. The State Pension Funds Continuing Appropriation Act is amended by changing Section 1.3 as follows:

(40 ILCS 15/1.3)

Sec. 1.3. Appropriations for the Teacher Health Insurance Security Fund. Beginning in State fiscal

year 1996, there is hereby appropriated, on a continuing annual basis, from the General Revenue Fund to the State Comptroller for deposit into the Teacher Health Insurance Security Fund, an amount equal to the amount certified by the Board of Trustees of the Teachers' Retirement System of Illinois under subsection (c) of Section 6.6 of the State Employees Group Insurance Act of 1971 as the estimated total amount of contributions to be paid under subsection (a) of that Section 6.6 in that fiscal year.

In addition to any other amounts that may be appropriated for this purpose, in State fiscal years 2005 through 2007, there is hereby appropriated, on a continuing annual basis, from the General Revenue Fund to the State Comptroller for deposit into the Teacher Health Insurance Security Fund, an amount equal to $13,000,000 in each ficsal year.

The moneys appropriated under this Section 1.3 shall be deposited into the Teacher Health Insurance Security Fund and used only for the purposes authorized in Section 6.5 of the State Employees Group Insurance Act of 1971.
(Source: P.A. 89-25, eff. 6-21-95.)

Section 90. The State Mandates Act is amended by adding Section 8.28 as follows:
(30 ILCS 805/8.28 new)

Sec. 8.28. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 93rd General Assembly.

Section 99. Effective date. This Act takes effect upon becoming law.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed; and the bill, as amended was ordered to a third reading.

READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Jacobs, **Senate Bill No. 3002**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 45; Nays 13.

The following voted in the affirmative:

Althoff	Garrett	Maloney	Sieben
Burzynski	Geo-Karis	Martinez	Silverstein
Clayborne	Haine	Meeks	Sullivan, J.
Collins	Halvorson	Munoz	Trotter
Cronin	Harmon	Obama	Viverito
Crotty	Hendon	Peterson	Walsh
Cullerton	Hunter	Radogno	Welch
del Valle	Jacobs	Risinger	Wojcik
DeLeo	Jones, W.	Ronen	Mr. President
Demuzio	Lightford	Sandoval	
Dillard	Link	Schoenberg	
Forby	Luechtefeld	Shadid	

The following voted in the negative:

Bomke	Petka	Rutherford	Winkel
Brady	Rauschenberger	Sullivan, D.	
Jones, J.	Righter	Syverson	
Lauzen	Roskam	Watson	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

CONSIDERATION OF RESOLUTION ON SECRETARY'S DESK

Senator del Valle moved that **Senate Joint Resolution No. 75**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator del Valle moved that Senate Joint Resolution No. 75 be adopted.

And on that motion a call of the roll was had resulting as follows:

Yeas 58; Nays 1.

The following voted in the affirmative:

Althoff	Geo-Karis	Meeks	Silverstein
Bomke	Haine	Munoz	Soden
Brady	Halvorson	Obama	Sullivan, D.
Burzynski	Harmon	Peterson	Sullivan, J.
Clayborne	Hendon	Petka	Syverson
Collins	Hunter	Radogno	Trotter
Cronin	Jacobs	Rauschenberger	Viverito
Crotty	Jones, J.	Righter	Walsh
Cullerton	Jones, W.	Risinger	Watson
del Valle	Lauzen	Ronen	Welch
DeLeo	Lightford	Roskam	Winkel
Demuzio	Link	Sandoval	Wojcik
Dillard	Luechtefeld	Schoenberg	Mr. President
Forby	Maloney	Shadid	
Garrett	Martinez	Sieben	

The following voted in the negative:

Rutherford

The motion prevailed.

And the resolution, as amended, was adopted.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

HOUSE BILL RECALLED

On motion of Senator Cullerton, **House Bill No. 649** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. **1**. Amend House Bill 649 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Equine Infectious Anemia Control Act is amended by changing Section 4 as follows:

(510 ILCS 65/4) (from Ch. 8, par. 954)

Sec. 4. Tests of equidae entering the State. All equidae more than 12 months of age entering the State for any reason ~~other than for immediate slaughter~~ shall be accompanied by a Certificate of Veterinary

Inspection issued by an accredited veterinarian of the state of origin within 30 days prior to entry and shall be negative to an official test for EIA within one year prior to entry. ~~Equidae entering the State for immediate slaughter shall be accompanied by a consignment direct to slaughter at an approved equine slaughtering establishment.~~

(Source: P.A. 86-223.)

(510 ILCS 65/4.3 new)

Sec. 4.3. Auction certificate of notification. Any equine owner who sells or otherwise transfers an equine in an equine auction must sign, upon consignment, a certificate of notification acknowledging that he or she has been made aware of the fact that the auctioned equine may be sold for slaughter. A copy of the certificate of notification shall accompany the equine upon sale or transfer. The person or entity conducting the auction shall provide the certificate of notification.

Section 99. Effective date. This Act takes effect upon becoming law.".

The motion prevailed.

And the amendment was adopted and ordered printed .

Floor Amendments numbered 2 and 3 were held in the Committee on Rules.

Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 4

AMENDMENT NO. **4**. Amend House Bill 649 by inserting the following immediately below the title:

"WHEREAS, The People of the State of Illinois find and declare that:

(a) The horse is a living symbol of the spirit, rugged independence, and tireless energy of our pioneer heritage;

(b) Horses have served us in war, carried us into the West and beyond, hauled our goods on their backs and in wagons, and entertained and partnered with man for thousands of years;

(c) The horse is a part of Illinois' rich heritage, having played a major role in Illinois' historical growth and development;

(d) Horses contribute significantly to the enjoyment of generations of recreation enthusiasts in Illinois, while contributing tremendous economic benefit;

(e) Horses are not raised for food or fiber and are taxed differently than food animals; and

(f) Horses can be stolen, or purchased without disclosure or under false pretenses, to be slaughtered or shipped for slaughter; and this practice has contributed to crime and consumer fraud; and

WHEREAS, The General Assembly hereby also declares the purpose and intent of this amendatory Act to be as follows:

(a) To recognize the horse as an important part of Illinois' heritage that deserves protection from those who would slaughter horses for food for human consumption; and

(b) To enact into law that which has been widely accepted for generations in this State: it is immoral and unlawful to slaughter horses in this State to be used for food for human consumption; therefore"; and

by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Horse Meat Act is amended by adding Section 1.5 as follows:

(225 ILCS 635/1.5 new)

Sec. 1.5. Slaughter for human consumption unlawful.

(a) Notwithstanding any other provision of law, it is unlawful for any person to slaughter a horse if that person knows or should know that any of the horse meat will be used for human consumption.

(b) Notwithstanding any other provision of law, it is unlawful for any person to possess, to import into or export from this State, or to sell, buy, give away, hold, or accept any horse with the intent of slaughtering that horse if that person knows or should know that any of the horse meat will be used for human consumption.

(c) Notwithstanding any other provision of law, it is unlawful for any person to possess, to import into or export from this State, or to sell, buy, give away, hold, or accept any horse meat if that person knows or should know that the horse meat will be used for human consumption.

(d) Any person who knowingly violates any of the provisions of this Section is guilty of a Class C misdemeanor.

(e) This Section shall not apply to:

(1) Any commonly accepted non commercial, recreational, or sporting activity.

(2) Any existing laws which relate to horse taxes or zoning.

(3) The processing of food producing animals other than those of the equine genus.

(225 ILCS 635/14 rep.) (from Ch. 56 1/2, par. 253)

Section 7. The Illinois Horse Meat Act is amended by repealing Section 14.

Section 10. The Animals Intended for Food Act is amended by changing Section 2.1 as follows:

(410 ILCS 605/2.1) (from Ch. 8, par. 107.1)

Sec. 2.1.

When in the interest of the general public and in the opinion of the Department of Agriculture it is deemed advisable, the Department has authority to quarantine or restrict any and all animals intended for human consumption that contain poisonous or deleterious substances which may render meat or meat products or poultry or poultry products from such animals or poultry injurious to health; except in case the quantity of such substances in such animals does not ordinarily render meat or meat products or poultry or poultry products from such animals injurious to health.

The Department or its duly authorized agent shall investigate or cause to be investigated all cases where it has reason to believe that animals intended for human consumption are contaminated with any poisonous or deleterious substance which may render them unfit for human consumption.

The Department or its duly designated agent in performing the duties vested in it under this Act is empowered to enter any premises, barns, stables, sheds, or other places for the purposes of administering this Act.

The Department may allow the sale or transfer of animals under quarantine or restriction subject to reasonable rules and regulations as may be prescribed.

For the purposes of this Act, the term "Animal" means cattle, calves, sheep, swine, ~~horses, mules or other equidae,~~ goats, poultry and any other animal which can be or may be used in and for meat or poultry or their products for human consumption.

(Source: P.A. 77-2117.)

Section 15. The Illinois Equine Infectious Anemia Control Act is amended by changing Section 4 as follows:

(510 ILCS 65/4) (from Ch. 8, par. 954)

Sec. 4. Tests of equidae entering the State. All equidae more than 12 months of age entering the State for any reason ~~other than for immediate slaughter~~ shall be accompanied by a Certificate of Veterinary Inspection issued by an accredited veterinarian of the state of origin within 30 days prior to entry and shall be negative to an official test for EIA within one year prior to entry. ~~Equidae entering the State for immediate slaughter shall be accompanied by a consignment direct to slaughter at an approved equine slaughtering establishment.~~

(Source: P.A. 86-223.)

Section 20. The Humane Care for Animals Act is amended by changing Sections 5 and 7.5 as follows:

(510 ILCS 70/5) (from Ch. 8, par. 705)

Sec. 5. Lame or disabled horses. No person shall sell, offer to sell, lead, ride, transport, or drive on any public way any equidae which, because of debility, disease, lameness or any other cause, could not be worked in this State without violating this Act~~, unless the equidae is being sold, transported, or housed with the intent that it will be moved in an expeditious and humane manner to an approved slaughtering establishment~~. Such equidae may be conveyed to a proper place for medical or surgical treatment or ~~,~~ for humane keeping or euthanasia~~, or for slaughter in an approved slaughtering establishment~~.

A person convicted of violating this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class A misdemeanor. A second or subsequent violation is a Class 4 felony.

(Source: P.A. 92-650, eff. 7-11-02.)

(510 ILCS 70/7.5)

Sec. 7.5. Downed animals.

(a) For the purpose of this Section a downed animal is one incapable of walking without assistance.

(b) No downed animal shall be sent to a stockyard, auction, or other facility where its impaired mobility may result in suffering. An injured animal other than those of the equine genus may be sent directly to a slaughter facility.

(c) A downed animal sent to a stockyard, auction, or other facility in violation of this Section shall be humanely euthanized, the disposition of such animal shall be the responsibility of the owner, and the owner shall be liable for any expense incurred.

If an animal becomes downed in transit it shall be the responsibility of the carrier.

(d) A downed animal shall not be transported unless individually segregated.

(e) A person convicted of violating this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class B misdemeanor. A second or subsequent violation is a Class 4 felony, with every day that a violation continues constituting a separate offense.
(Source: P.A. 92-650, eff. 7-11-02.)

Section 25. The Humane Slaughter of Livestock Act is amended by changing Section 2 as follows:
(510 ILCS 75/2) (from Ch. 8, par. 229.52)

Sec. 2. As used in this Act:

(1) "Director" means the Director of the Department of Agriculture of the State of Illinois.

(2) "Person" means any individual, partnership, corporation, or association doing business in this State, in whole or in part.

(3) "Slaughterer" means any person regularly engaged in the commercial slaughtering of livestock.

(4) "Livestock" means cattle, calves, sheep, swine, horses, mules, goats, and any other animal which can or may be used in and for the preparation of meat or meat products for consumption by human beings or animals. "Livestock", however, does not include horses, mules, or other equidae to be used in and for the preparation of meat or meat products for consumption by human beings, which is prohibited under Section 1.5 of the Illinois Horse Meat Act.

(5) "Packer" means any person engaged in the business of slaughtering or manufacturing or otherwise preparing meat or meat products for sale, either by such person or others; or of manufacturing or preparing livestock products for sale by such person or others.

(6) "Humane method" means either (a) a method whereby the animal is rendered insensible to pain by gunshot or by mechanical, electrical, chemical or other means that is rapid and effective, before being shackled, hoisted, thrown, cast or cut; or (b) a method in accordance with ritual requirements of the Jewish faith or any other religious faith whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.
(Source: Laws 1967, p. 2023.)

Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 99. Effective date. This Act takes effect upon becoming law.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Cullerton, **House Bill No. 649**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 38; Nays 15; Present 2.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Soden
Brady	Geo-Karis	Meeks	Sullivan, D.
Clayborne	Harmon	Munoz	Trotter
Collins	Hendon	Obama	Viverito
Cronin	Hunter	Peterson	Welch
Crotty	Jacobs	Radogno	Winkel
Cullerton	Lauzen	Ronen	Wojcik
del Valle	Lightford	Roskam	Mr. President
DeLeo	Link	Rutherford	
Dillard	Maloney	Silverstein	

The following voted in the negative:

Bomke	Jones, J.	Risinger	Syverson
Burzynski	Petka	Shadid	Walsh
Demuzio	Rauschenberger	Sieben	Watson
Forby	Righter	Sullivan, J.	

The following voted present:

Haine
Halvorson

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

Senator Luechtefeld asked and obtained unanimous consent for the Journal to reflect his negative vote on **House Bill No. 649**.

Senator Schoenberg asked and obtained unanimous consent for the Journal to reflect his positive vote on **House Bill No. 649**.

HOUSE BILL RECALLED

On motion of Senator Link, **House Bill No. 843** was recalled from the order of third reading to the order of second reading.

Senator Link offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. **1**. Amend House Bill 843 by replacing everything after the enacting clause with the following:

"Section 5. The Township Code is amended by changing Sections 285-5 and 285-10 as follows:

(60 ILCS 1/285-5)

Sec. 285-5. Payment of bond fund balance to township.

(a) Except as provided in subsection (b), whenever ~~Whenever~~ all the bonds of any township have been fully paid and canceled and there remains in the hands of the county collector of taxes or county treasurer, after the payment, any balance to the credit of the bond fund of the township, the county collector of taxes or county treasurer shall pay to the supervisor of the township the balance of the fund in his hands, taking a receipt of the supervisor for the payment.

(b) Beginning on the effective date of this amendatory Act of the 93rd General Assembly and through December 31, 2004, whenever all the bonds of any township have been fully paid and canceled and there remains any balance to the credit of the bond fund of the township, including any amounts that were in the bond fund prior to the payment in full and cancellation of the bonds, in the hands of the township supervisor, the balance may be appropriated and expended in accordance with Section 285-10.

(Source: P.A. 84-1308; 88-62.)

(60 ILCS 1/285-10)

Sec. 285-10. Use of moneys. Moneys paid to the township supervisor and moneys in the hands of the

township supervisor under Section 285-5, may be appropriated and expended for defraying the general charges and expenses of the township; for laying out, making, and repairing the roads and bridges of the township and purchasing materials, implements, and machinery for those undertakings; for the maintenance and operation of open spaces; and for the payment of any outstanding orders, all in the manner and proportions the legal voters of the township determine at their annual township meeting or special township meeting duly called for that purpose.
(Source: Laws 1889, p. 357; P.A. 88-62.)

Section 99. Effective date. This Act takes effect upon becoming law.".

The motion prevailed.
And the amendment was adopted and ordered printed
Senator Link offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. **2**. Amend House Bill 843, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Township Code is amended by changing Sections 285-5 and 285-10 as follows:
(60 ILCS 1/285-5)
Sec. 285-5. Payment of bond fund balance to township.
(a) Whenever all the bonds of any township have been fully paid and canceled and there remains in the hands of the county collector of taxes or county treasurer, after the payment, any balance to the credit of the bond fund of the township, the county collector of taxes or county treasurer shall pay to the supervisor of the township the balance of the fund in his hands, taking a receipt of the supervisor for the payment, and the balance may be appropriated and expended in accordance with subsection (a) of Section 285-10.
(b) Beginning on the effective date of this amendatory Act of the 93rd General Assembly and through December 31, 2004, whenever all the bonds of any township have been fully paid and canceled and there remains any balance to the credit of the bond fund of the township, including any amounts that were in the bond fund prior to the payment in full and cancellation of the bonds, in the hands of the township supervisor (other than amounts paid to the supervisor under subsection (a)), the balance may be appropriated and expended in accordance with subsection (b) of Section 285-10.
(Source: P.A. 84-1308; 88-62.)
(60 ILCS 1/285-10)
Sec. 285-10. Use of moneys.
(a) Moneys paid to the township supervisor under subsection (a) of Section 285-5, may be appropriated and expended for defraying the general charges and expenses of the township; for laying out, making, and repairing the roads and bridges of the township and purchasing materials, implements, and machinery for those undertakings; for the maintenance and operation of open spaces; and for the payment of any outstanding orders, all in the manner and proportions the legal voters of the township determine at their annual township meeting or special township meeting duly called for that purpose.
(b) Moneys in the hands of the township supervisor under subsection (b) of Section 285-5 may be appropriated and expended only for purposes relating to the purposes for which the bonds were issued.
(Source: Laws 1889, p. 357; P.A. 88-62.)

Section 99. Effective date. This Act takes effect upon becoming law.".

The motion prevailed.
And the amendment was adopted and ordered printed
There being no further amendments, the bill, as amended, was ordered to a third reading.

JOINT ACTION MOTIONS FILED

The following Joint Action Motions to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Motion to Concur with House Amendment 1 to Senate Bill 2145
Motion to Concur with House Amendment 1 to Senate Bill 2320

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Link, **House Bill No. 843**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Geo-Karis	Meeks	Silverstein
Bomke	Haine	Munoz	Soden
Brady	Halvorson	Obama	Sullivan, D.
Burzynski	Harmon	Peterson	Sullivan, J.
Clayborne	Hendon	Petka	Syverson
Collins	Hunter	Rauschenberger	Trotter
Cronin	Jacobs	Righter	Viverito
Crotty	Jones, J.	Risinger	Walsh
Cullerton	Jones, W.	Ronen	Watson
del Valle	Lauzen	Roskam	Welch
DeLeo	Lightford	Rutherford	Winkel
Demuzio	Link	Sandoval	Wojcik
Dillard	Luechtefeld	Schoenberg	Mr. President
Forby	Maloney	Shadid	
Garrett	Martinez	Sieben	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

HOUSE BILL RECALLED

On motion of Senator Welch, **House Bill No. 1020** was recalled from the order of third reading to the order of second reading.

Senator Welch offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. **2**. Amend House Bill 1020, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Marriage and Dissolution of Marriage Act is amended by changing Section 601 as follows:

(750 ILCS 5/601) (from Ch. 40, par. 601)

Sec. 601. Jurisdiction; Commencement of Proceeding.

(a) A court of this State competent to decide child custody matters has jurisdiction to make a child custody determination in original or modification proceedings as provided in Section 201 of the Uniform Child-Custody Jurisdiction and Enforcement Act as adopted by this State.

(b) A child custody proceeding is commenced in the court:

(1) by a parent, by filing a petition:

(i) for dissolution of marriage or legal separation or declaration of invalidity of marriage; or

(ii) for custody of the child, in the county in which he is permanently resident or found;

(2) by a person other than a parent, by filing a petition for custody of the child in the county in which he is permanently resident or found, but only if he is not in the physical custody of one of his parents; or

(3) by a stepparent, by filing a petition, if all of the following circumstances are met:

(A) the child is at least 12 years old;

(B) the custodial parent and stepparent were married for at least 5 years during which the child resided with the parent and stepparent;

(C) the custodial parent is deceased or is disabled and cannot perform the duties of a parent to the child;

(D) the stepparent provided for the care, control, and welfare to the child prior to the initiation of custody proceedings;

(E) the child wishes to live with the stepparent; and

(F) it is alleged to be in the best interests and welfare of the child to live with the stepparent as provided in Section 602 of this Act.

(4) When one of the parents is deceased, by a grandparent who is a parent or stepparent of a deceased parent, by filing a petition, if one or more of the following existed at the time of the parent's death:

(A) the surviving parent had been absent from the marital abode for more than one month without the deceased spouse knowing his or her whereabouts;

(B) the surviving parent was in State or federal custody; or

(C) the surviving parent had: (i) received supervision for or been convicted of any violation of Article 12 of the Criminal Code of 1961 directed towards the deceased parent or the child; or (ii) received supervision or been convicted of violating an order of protection entered under Section 217, 218, or 219 of the Illinois Domestic Violence Act of 1986 for the protection of the deceased parent or the child.

(c) Notice of a child custody proceeding, including an action for modification of a previous custody order, shall be given to the child's parents, guardian and custodian, who may appear, be heard, and file a responsive pleading. The court, upon showing of good cause, may permit intervention of other interested parties.

(d) Proceedings for modification of a previous custody order commenced more than 30 days following the entry of a previous custody order must be initiated by serving a written notice and a copy of the petition for modification upon the child's parent, guardian and custodian at least 30 days prior to hearing on the petition. Nothing in this Section shall preclude a party in custody modification proceedings from moving for a temporary order under Section 603 of this Act.

(e) (Blank).

(f) The court shall, at the court's discretion or upon the request of any party entitled to petition for custody of the child, appoint a guardian ad litem to represent the best interest of the child for the duration of the custody proceeding or for any modifications of any custody orders entered. Nothing in this Section shall be construed to prevent the court from appointing the same guardian ad litem for 2 or more children that are siblings or half-siblings.

(Source: P.A. 93-108, eff. 1-1-04.)".

The motion prevailed.

And the amendment was adopted and ordered printed

There being no further amendments, the bill, as amended, was ordered to a third reading.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Welch, **House Bill No. 1020**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Geo-Karis	Meeks	Sieben
Bomke	Haine	Munoz	Silverstein
Brady	Halvorson	Obama	Soden
Burzynski	Harmon	Peterson	Sullivan, D.
Clayborne	Hendon	Petka	Sullivan, J.
Collins	Hunter	Radogno	Syverson
Cronin	Jacobs	Rauschenberger	Trotter
Crotty	Jones, J.	Righter	Viverito
Cullerton	Jones, W.	Risinger	Walsh
del Valle	Lauzen	Ronen	Watson
DeLeo	Lightford	Roskam	Welch
Demuzio	Link	Rutherford	Winkel
Dillard	Luechtefeld	Sandoval	Wojcik
Forby	Maloney	Schoenberg	Mr. President
Garrett	Martinez	Shadid	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

HOUSE BILL RECALLED

On motion of Senator Silverstein, **House Bill No. 1659** was recalled from the order of third reading to the order of second reading.

Senator Silverstein offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. **2**. Amend House Bill 1659, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Health Facilities Planning Act is amended by changing Section 3 as follows:
(20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)
(Section scheduled to be repealed on July 1, 2008)
Sec. 3. Definitions. As used in this Act:
"Health care facilities" means and includes the following facilities and organizations:
1. An ambulatory surgical treatment center required to be licensed pursuant to the Ambulatory Surgical Treatment Center Act;
2. An institution, place, building, or agency required to be licensed pursuant to the Hospital Licensing Act;
3. Skilled and intermediate long term care facilities licensed under the Nursing Home Care Act;
3. Skilled and intermediate long term care facilities licensed under the Nursing Home Care Act;
4. Hospitals, nursing homes, ambulatory surgical treatment centers, or kidney disease treatment centers maintained by the State or any department or agency thereof;
5. Kidney disease treatment centers, including a free-standing hemodialysis unit required to be licensed under the End Stage Renal Disease Facility Act; and
6. An institution, place, building, or room used for the performance of outpatient surgical procedures that is leased, owned, or operated by or on behalf of an out-of-state facility.

No federally owned facility shall be subject to the provisions of this Act, nor facilities used solely for healing by prayer or spiritual means.

No facility licensed under the Supportive Residences Licensing Act or the Assisted Living and Shared Housing Act shall be subject to the provisions of this Act.

A facility designated as a supportive living facility that is in good standing with the demonstration project established under Section 5-5.01a of the Illinois Public Aid Code shall not be subject to the provisions of this Act.

This Act does not apply to facilities granted waivers under Section 3-102.2 of the Nursing Home Care Act. However, if a demonstration project under that Act applies for a certificate of need to convert to a nursing facility, it shall meet the licensure and certificate of need requirements in effect as of the date of application.

This Act does not apply to a dialysis facility that provides only dialysis training, support, and related services to individuals with end stage renal disease who have elected to receive home dialysis. This Act does not apply to a dialysis unit located in a licensed nursing home that offers or provides dialysis-related services to residents with end stage renal disease who have elected to receive home dialysis within the nursing home. The Board, however, may require these dialysis facilities and licensed nursing homes to report statistical information on a quarterly basis to the Board to be used by the Board to conduct analyses on the need for proposed kidney disease treatment centers.

This Act shall not apply to the closure of an entity or a portion of an entity licensed under the Nursing Home Care Act that elects to convert, in whole or in part, to an assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act.

With the exception of those health care facilities specifically included in this Section, nothing in this Act shall be intended to include facilities operated as a part of the practice of a physician or other licensed health care professional, whether practicing in his individual capacity or within the legal structure of any partnership, medical or professional corporation, or unincorporated medical or professional group. Further, this Act shall not apply to physicians or other licensed health care professional's practices where such practices are carried out in a portion of a health care facility under contract with such health care facility by a physician or by other licensed health care professionals, whether practicing in his individual capacity or within the legal structure of any partnership, medical or professional corporation, or unincorporated medical or professional groups. This Act shall apply to construction or modification and to establishment by such health care facility of such contracted portion which is subject to facility licensing requirements, irrespective of the party responsible for such action or attendant financial obligation.

"Person" means any one or more natural persons, legal entities, governmental bodies other than federal, or any combination thereof.

"Consumer" means any person other than a person (a) whose major occupation currently involves or whose official capacity within the last 12 months has involved the providing, administering or financing of any type of health care facility, (b) who is engaged in health research or the teaching of health, (c) who has a material financial interest in any activity which involves the providing, administering or financing of any type of health care facility, or (d) who is or ever has been a member of the immediate family of the person defined by (a), (b), or (c).

"State Board" means the Health Facilities Planning Board.

"Construction or modification" means the establishment, erection, building, alteration, reconstruction, modernization, improvement, extension, discontinuation, change of ownership, of or by a health care facility, or the purchase or acquisition by or through a health care facility of equipment or service for diagnostic or therapeutic purposes or for facility administration or operation, or any capital expenditure made by or on behalf of a health care facility which exceeds the capital expenditure minimum; however, any capital expenditure made by or on behalf of a health care facility for the construction or modification of a facility licensed under the Assisted Living and Shared Housing Act shall be excluded from any obligations under this Act.

"Establish" means the construction of a health care facility or the replacement of an existing facility on another site.

"Major medical equipment" means medical equipment which is used for the provision of medical and other health services and which costs in excess of the capital expenditure minimum, except that such term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act to meet the requirements of paragraphs (10) and (11) of Section 1861(s) of such Act. In determining whether medical equipment has a value in excess of the capital expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of such equipment shall be included.

"Capital Expenditure" means an expenditure: (A) made by or on behalf of a health care facility (as such a facility is defined in this Act); and (B) which under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance, or is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part; and which exceeds the capital expenditure minimum.

For the purpose of this paragraph, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if such expenditure exceeds the capital expenditures minimum. Donations of equipment or facilities to a health care facility which if acquired directly by such facility would be subject to review under this Act shall be considered capital expenditures, and a transfer of equipment or facilities for less than fair market value shall be considered a capital expenditure for purposes of this Act if a transfer of the equipment or facilities at fair market value would be subject to review.

"Capital expenditure minimum" means $6,000,000, which shall be annually adjusted to reflect the increase in construction costs due to inflation, for major medical equipment and for all other capital expenditures; provided, however, that when a capital expenditure is for the construction or modification of a health and fitness center, "capital expenditure minimum" means the capital expenditure minimum for all other capital expenditures in effect on March 1, 2000, which shall be annually adjusted to reflect the increase in construction costs due to inflation.

"Non-clinical service area" means an area (i) for the benefit of the patients, visitors, staff, or employees of a health care facility and (ii) not directly related to the diagnosis, treatment, or rehabilitation of persons receiving services from the health care facility. "Non-clinical service areas" include, but are not limited to, chapels; gift shops; news stands; computer systems; tunnels, walkways, and elevators; telephone systems; projects to comply with life safety codes; educational facilities; student housing; patient, employee, staff, and visitor dining areas; administration and volunteer offices; modernization of structural components (such as roof replacement and masonry work); boiler repair or replacement; vehicle maintenance and storage facilities; parking facilities; mechanical systems for heating, ventilation, and air conditioning; loading docks; and repair or replacement of carpeting, tile, wall coverings, window coverings or treatments, or furniture. Solely for the purpose of this definition, "non-clinical service area" does not include health and fitness centers.

"Areawide" means a major area of the State delineated on a geographic, demographic, and functional basis for health planning and for health service and having within it one or more local areas for health planning and health service. The term "region", as contrasted with the term "subregion", and the word "area" may be used synonymously with the term "areawide".

"Local" means a subarea of a delineated major area that on a geographic, demographic, and functional basis may be considered to be part of such major area. The term "subregion" may be used synonymously with the term "local".

"Areawide health planning organization" or "Comprehensive health planning organization" means the health systems agency designated by the Secretary, Department of Health and Human Services or any successor agency.

"Local health planning organization" means those local health planning organizations that are designated as such by the areawide health planning organization of the appropriate area.

"Physician" means a person licensed to practice in accordance with the Medical Practice Act of 1987, as amended.

"Licensed health care professional" means a person licensed to practice a health profession under pertinent licensing statutes of the State of Illinois.

"Director" means the Director of the Illinois Department of Public Health.

"Agency" means the Illinois Department of Public Health.

"Comprehensive health planning" means health planning concerned with the total population and all health and associated problems that affect the well-being of people and that encompasses health services, health manpower, and health facilities; and the coordination among these and with those social, economic, and environmental factors that affect health.

"Alternative health care model" means a facility or program authorized under the Alternative Health Care Delivery Act.

"Out-of-state facility" means a person that is both (i) licensed as a hospital or as an ambulatory surgery center under the laws of another state or that qualifies as a hospital or an ambulatory surgery center under regulations adopted pursuant to the Social Security Act and (ii) not licensed under the Ambulatory Surgical Treatment Center Act, the Hospital Licensing Act, or the Nursing Home Care Act. Affiliates of out-of-state facilities shall be considered out-of-state facilities. Affiliates of Illinois licensed health care facilities 100% owned by an Illinois licensed health care facility, its parent, or Illinois physicians licensed to practice medicine in all its branches shall not be considered out-of-state facilities. Nothing in this definition shall be construed to include an office or any part of an office of a physician licensed to practice medicine in all its branches in Illinois that is not required to be licensed under the Ambulatory Surgical Treatment Center Act.

"Change of ownership of a health care facility" means a change in the person who has ownership or control of a health care facility's physical plant and capital assets. A change in ownership is indicated by the following transactions: sale, transfer, acquisition, lease, change of sponsorship, or other means of transferring control.

"Related person" means any person that: (i) is at least 50% owned, directly or indirectly, by either the health care facility or a person owning, directly or indirectly, at least 50% of the health care facility; or (ii) owns, directly or indirectly, at least 50% of the health care facility.

(Source: P.A. 93-41, eff. 6-27-03.)

Section 10. The End Stage Renal Disease Facility Act is amended by changing Sections 10 and 20 as follows:

(210 ILCS 62/10)

Sec. 10. License required. Except as provided by this Act, no person shall open, manage, conduct, offer, maintain, or advertise an end stage renal disease facility without a valid license issued by the Department.

Each ESRDF, including those that provide only training services, may oversee remote station facilities for home dialysis patients in licensed nursing homes under the ESRDF's license. These remote station facilities are not required to obtain a separate license under this Act, but shall be inspected under Department rules as remote stations of the ESRDF.

Notwithstanding any other provisions of this Section, all end stage renal disease facilities in existence as of the effective date of rules adopted by the Department to implement this Act (the "Implementation Date") may continue to operate but must ~~this Act shall~~ obtain a valid license to operate within one year after the Implementation Date ~~adoption of rules to implement this Act~~.

(Source: P.A. 92-794, eff. 7-1-03.)

(210 ILCS 62/20)

Sec. 20. Issuance and renewal of license.

(a) An applicant for a license under this Act shall submit an application on forms prescribed by the Department.

(b) Each application shall be accompanied by a non-refundable license fee, as established by rule of the Department.

(c) Each application shall contain evidence that there is at least one physician responsible for the medical direction of the facility and that each dialysis technician on staff has completed a training program as required by this Act.

(d) The Department may grant a temporary initial license to an applicant. A temporary initial license expires on the earlier of (i) the date the Department issues or denies the license or (ii) the date 6 months after the temporary initial license was issued. The Department may issue subsequent temporary licenses when necessary.

(e) The Department shall issue a license if, after application, inspection, and investigation, it finds the applicant meets the requirements of this Act and the standards adopted pursuant to this Act. The Department may include participation as a supplier of end stage renal disease services under Titles XVIII and XIX of the federal Social Security Act as a condition of licensure. The Department may consider facilities and remote stations certified under Titles XVIII and XIX of the federal Social Security Act as meeting the licensure requirements under this Section.

(f) The license is renewable annually after submission of (i) the renewal application and fee and (ii) an annual report on a form prescribed by the Department that includes information related to quality of care at the end stage renal disease facility. The report must be in the form and documented by evidence as required by Department rule.

(Source: P.A. 92-794, eff. 7-1-03.)

Section 99. Effective date. This Act takes effect upon becoming law.".

The motion prevailed.

And the amendment was adopted and ordered printed

There being no further amendments, the bill, as amended, was ordered to a third reading.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Silverstein, **House Bill No. 1659**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Geo-Karis	Meeks	Sieben
Bomke	Haine	Munoz	Silverstein
Brady	Halvorson	Obama	Soden
Burzynski	Harmon	Peterson	Sullivan, D.
Clayborne	Hendon	Petka	Sullivan, J.
Collins	Hunter	Radogno	Syverson
Cronin	Jacobs	Rauschenberger	Trotter
Crotty	Jones, J.	Righter	Viverito
Cullerton	Jones, W.	Risinger	Walsh
del Valle	Lauzen	Ronen	Watson
DeLeo	Lightford	Roskam	Welch
Demuzio	Link	Rutherford	Wojcik
Dillard	Luechtefeld	Sandoval	Mr. President
Forby	Maloney	Schoenberg	
Garrett	Martinez	Shadid	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

HOUSE BILL RECALLED

On motion of Senator Meeks, **House Bill No. 2587** was recalled from the order of third reading to the order of second reading.

Floor Amendment No. 3 was postponed in the Committee on Transportation.

Floor Amendment No. 4 was held in the Committee on Transportation.

Senator Meeks offered the following amendment and moved its adoption:

AMENDMENT NO. 5

AMENDMENT NO. **5**. Amend House Bill 2587, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 2, in line 15, by replacing "in" with "each"; and

on page 2, in line 16, by deleting "2005"; and

by replacing line 29 on page 2 through line 22 on page 3 with the following:

"(1) Two demonstration projects for the Chicago Transit Authority to increase services to currently underserved communities and neighborhoods, such as, but not limited to, Altgeld Gardens, Pilsen, and Lawndale.

(2) (Blank.)".

The motion prevailed.

And the amendment was adopted and ordered printed

There being no further amendments, the bill, as amended, was ordered to a third reading.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Meeks, **House Bill No. 2587**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 45; Nays 12; Present 1.

The following voted in the affirmative:

Bomke	Geo-Karis	Meeks	Sullivan, D.
Brady	Haine	Munoz	Sullivan, J.
Clayborne	Halvorson	Obama	Trotter
Collins	Harmon	Radogno	Viverito
Cronin	Hendon	Ronen	Walsh
Crotty	Hunter	Roskam	Welch
Cullerton	Jacobs	Rutherford	Winkel
del Valle	Jones, J.	Sandoval	Wojcik
DeLeo	Jones, W.	Schoenberg	Mr. President
Demuzio	Lightford	Shadid	
Forby	Link	Silverstein	
Garrett	Martinez	Soden	

The following voted in the negative:

Althoff	Peterson	Risinger
Burzynski	Petka	Sieben
Dillard	Rauschenberger	Syverson
Lauzen	Righter	Watson

The following voted present:

Maloney

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

On motion of Senator Schoenberg, **House Bill No. 4894**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 34; Nays 24.

The following voted in the affirmative:

Clayborne	Garrett	Maloney	Silverstein
Collins	Haine	Martinez	Sullivan, J.
Crotty	Halvorson	Meeks	Trotter
Cullerton	Harmon	Munoz	Viverito
del Valle	Hendon	Risinger	Walsh
DeLeo	Hunter	Ronen	Welch
Demuzio	Jacobs	Sandoval	Mr. President

Dillard	Lightford	Schoenberg	
Forby	Link	Shadid	

The following voted in the negative:

Althoff	Lauzen	Righter	Watson
Bomke	Luechtefeld	Roskam	Winkel
Brady	Obama	Rutherford	Wojcik
Burzynski	Peterson	Sieben	
Cronin	Petka	Soden	
Jones, J.	Radogno	Sullivan, D.	
Jones, W.	Rauschenberger	Syverson	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

HOUSE BILL RECALLED

On motion of Senator Welch, **House Bill No. 848** was recalled from the order of third reading to the order of second reading.

Senator Welch offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. **1**. Amend House Bill 848 by replacing everything after the enacting clause with the following:

"Section 1. Short title; effectiveness. This Act may be cited as the Tax Shelter Voluntary Compliance Act. This Act is of no force and effect unless and until House Bill 4266 of the 93rd General Assembly becomes law in the same form as it passed both houses of the General Assembly on April 29, 2004.

Section 5. Tax shelter voluntary compliance program.

(a) In general. The Department shall establish and administer a tax shelter voluntary compliance program as provided in this Section for eligible taxpayers subject to tax under the Illinois Income Tax Act. The tax shelter voluntary compliance program shall be conducted from October 15, 2004 to November 30, 2004 and shall apply to tax liabilities under Section 201 of the Illinois Income Tax Act attributable to the use of abusive tax avoidance transactions for taxable years beginning before January 1, 2004. The Department shall adopt rules, issue forms and instructions, and take such other actions as it deems necessary to implement the provisions of this Act. Any correspondence mailed by the Department to a taxpayer at the taxpayer's last known address outlining the tax shelter voluntary compliance program constitutes a "contact" within the meaning of Sections 1005(b)(6) and 1005(c) of the Illinois Income Tax Act for taxable years to which this Act applies.

(b) Election. An eligible taxpayer that meets the requirements of subsection (c) of this Section with respect to any taxable year to which this Act applies may elect to participate in the tax shelter voluntary compliance program under either (but not both) paragraph (1) or paragraph (2) of this subsection. Such election shall be made in the form and manner prescribed by the Department and, once made, shall be irrevocable.

(1) Voluntary compliance without appeal. If a taxpayer elects to participate under this paragraph, then: (i) the Department shall abate and not seek to collect any penalty that may be applicable to the underreporting or underpayment of Illinois income tax attributable to the use of abusive tax avoidance transactions for such taxable year; (ii) except as otherwise provided in this Act, the Department shall not seek civil or criminal prosecution against the taxpayer for such taxable year with respect to abusive tax avoidance transactions; and (iii) the taxpayer may not file a claim for credit or refund of amounts paid for such taxable year in connection with abusive tax avoidance transactions. No penalty may be waived or abated under this Act if the penalty imposed relates to an amount of Illinois income tax assessed prior to October 15, 2004.

(2) Voluntary compliance with appeal. If an eligible taxpayer elects to participate under this paragraph, then: (i) the Department shall abate and not seek to collect the penalties imposed

under Sections 1005(b) and 1005(c) of the Illinois Income Tax Act with respect to such taxable year; (ii) except as otherwise provided in this Act, the Department shall not seek civil or criminal prosecution against the taxpayer for such taxable year with respect to abusive tax avoidance transactions; and (iii) the taxpayer may file a claim for credit or refund as provided in the Illinois Income Tax Act with respect to such taxable year. Notwithstanding Section 909(e) of the Illinois Income Tax Act, the taxpayer may not file a written protest until after either of the following: (i) the Department issues a notice of denial, or (ii) the earlier of (1) the date which is 180 days after the date of a final determination by the Internal Revenue Service with respect to the transactions at issue, or (2) the date that is 4 years after the date the claim for refund was filed or one year after full payment of all tax, including penalty and interest. No penalty may be waived or abated under this Act if the penalty imposed relates to an amount of Illinois income tax assessed prior to October 15, 2004.

(c) Eligible taxpayer. The tax shelter voluntary compliance program applies to any taxpayer who, during the period from October 15, 2004 to November 30, 2004, does both of the following:

(1) Files an amended return for the taxable year for which the taxpayer used an abusive tax avoidance transaction to under report the taxpayer's Illinois income tax liability, reporting the total Illinois net income and tax for such taxable year computed without regard to any abusive tax avoidance transactions; and

(2) Makes full payment of the entire amount of Illinois income tax and interest due for such taxable year (not including a payment made under protest as provided in Section 2a.1 of the State Officers and Employees Money Disposition Act (30 ILCS 230/2a.1)).

Section 10. Abusive tax avoidance transaction. For purposes of this Act, the term "abusive tax avoidance transaction" means a plan or arrangement devised for the principal purpose of avoiding federal or Illinois income tax. Abusive tax avoidance transactions include, but are not limited to, "listed transactions", as defined in Treasury Regulations Section 1.6011-4(b)(2), and Illinois listed transactions as defined in Section 501(b)(2)(A)(2) of the Illinois Income Tax Act.

Section 15. Article 2 Credits. In the event a taxpayer does not participate in the tax shelter voluntary compliance program with respect to a taxable year in which there exists a deficiency attributable in whole or in part to an abusive tax avoidance transaction, the following apply:

(i) Any Article 2 credit otherwise earned in such taxable year shall be disallowed.

(ii) Any Article 2 credit carried over or back to such taxable year shall be disallowed.

Any Article 2 credit disallowed under item (i) or (ii), or both, of this Section shall be deemed absorbed in such taxable year, and shall not be carried forward or back to any other taxable year.

Section 20. The fact of a taxpayer's participation in the tax shelter voluntary compliance program shall not be considered evidence that the taxpayer in fact engaged in an abusive tax avoidance transaction.

Section 25. Application of Act. Nothing in this Act applies to small businesses as defined in the Small Business Advisory Act.

Section 905. If and only if House Bill 4266 of the 93rd General Assembly becomes law in the same form as passed both houses of the General Assembly on April 29, 2004, the Statute on Statutes is amended by changing Section 1.23 as follows:

(5 ILCS 70/1.23) (from Ch. 1, par. 1024)

Sec. 1.23. General Revenue Law of Illinois; economic substance doctrine.

(a) The "General Revenue Law of Illinois", or any equivalent expression, when used with reference to revenue, shall be deemed to refer to the Property Tax Code and all existing and future amendments thereto and modifications thereof, and all rules now or hereafter adopted pursuant thereto.

(b) Economic substance doctrine. In applying the provisions of Chapter 35 (relating to revenue), the economic substance doctrine shall apply.

The economic substance doctrine means the common law doctrine under which tax benefits with respect to a transaction or arrangement are not allowable if the transaction or arrangement does not have economic substance or lacks a business purpose (including a transaction or arrangement in which an entity is disregarded as lacking economic substance). For purposes of applying the economic substance

doctrine, a transaction or arrangement shall be considered as having economic substance only if (i) the transaction changes in a meaningful way (apart from its tax effects), the taxpayer's economic position, and (ii) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

(c) The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to any small business as defined in the Small Business Advisory Act.

(Source: P.A. 88-670, eff. 12-2-94.)

Section 910. If and only if House Bill 4266 of the 93rd General Assembly becomes law in the same form as passed both houses of the General Assembly on April 29, 2004, the Illinois Income Tax Act is amended by changing Sections 203, 205, 207, 304, 305, 501, 502, 711, 712, 713, 804, 905, 911, 1001, 1002, 1005, and 1501 and by adding Sections 709.5, 1007, 1008, 1405.5, and 1405.6 as follows:

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

Sec. 203. Base income defined.

(a) Individuals.

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

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

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

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

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

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

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

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

(D-15) For taxable years ending on or after December 31, 2000 and before December 31, 2004 ~~2001 and thereafter~~, an amount equal to the bonus depreciation deduction ~~(30% of the adjusted basis of the qualified property)~~ taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code; ~~and~~

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

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

(D-17) For taxable years ending on or after December 31, 2004, an amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly, to a foreign person who would be a member of the same unitary business group but for the fact that foreign person's business activity outside the United States is 80% or more of the foreign

person's total business activity. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred. This subparagraph does not apply to an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person that is subject in a foreign country to a tax on or measured by net income with respect to such interest;

(D-18) For taxable years ending on or after December 31, 2004, an amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(a)(2)(D-17) of this Act. This subparagraph shall not apply to any item of intangible expenses or costs paid, accrued, or incurred, directly or indirectly, from a transaction with a foreign person that is subject in a foreign country to a tax on or measured by net income with respect to such item. As used in this subparagraph, the term "intangible expenses and costs" includes (1) expenses, losses, and costs for, or related to, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property; (2) losses incurred, directly or indirectly, from factoring transactions or discounting transactions; (3) royalty, patent, technical, and copyright fees; (4) licensing fees; and (5) other similar expenses and costs. For purposes of this subparagraph, "intangible property" includes patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets;

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

(D-25) For taxable years ending on or after December 31, 2004, an amount equal to the amount excluded from gross income under Section 101(a) of the Internal Revenue Code with respect to an employer-owned life insurance contract, but only to the extent that this amount exceeds the sum of the premiums or other amounts paid for the contract. The addition modification provided under this subparagraph does not apply to the extent that proceeds are payable to a member of the family (within the meaning of Section 267(c)(4) of the Internal Revenue Code) of the insured, to any individual who is the designated beneficiary (other than the employer or an affiliate of the employer) of the insured under the contract, to a trust established for the benefit of any such person, or to the estate of the insured, or are to be used to purchase an equity interest in the employer (or an affiliate) from any such person.

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

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

this amendatory Act of the 92nd General Assembly are exempt from the provisions of Section 250;

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

(G) The valuation limitation amount;

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

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

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

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

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

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

(N) An amount equal to all amounts included in such total which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the United States; provided that, in the case of any statute of this State or of the United States, any treaty of the United States, the Illinois Constitution, or the United States Constitution that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the income ~~interest~~ net of bond premium amortization , interest expense incurred on indebtedness to carry the bond or other obligation, expenses incurred in producing the income to be deducted, and all other related expenses. The amount of expenses to be taken into account under this provision may not exceed the amount of income that is exempted;

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

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

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

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

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

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

the taxpayer, other than interest added pursuant to item (D-5) of this paragraph (2);

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

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

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

(X) For taxable year 1999 and thereafter, an amount equal to the amount of any (i) distributions, to the extent includible in gross income for federal income tax purposes, made to the taxpayer because of his or her status as a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim and (ii) items of income, to the extent includible in gross income for federal income tax purposes, attributable to, derived from or in any way related to assets stolen from, hidden from, or otherwise lost to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime immediately prior to, during, and immediately after World War II, including, but not limited to, interest on the proceeds receivable as insurance under policies issued to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime by European insurance companies immediately prior to and during World War II; provided, however, this subtraction from federal adjusted gross income does not apply to assets acquired with such assets or with the proceeds from the sale of such assets; provided, further, this paragraph shall only apply to a taxpayer who was the first recipient of such assets after their recovery and who is a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim. The amount of and the eligibility for any public assistance, benefit, or similar entitlement is not affected by the inclusion of items (i) and (ii) of this paragraph in gross income for federal income tax purposes. This paragraph is exempt from the provisions of Section 250;

(Y) For taxable years beginning on or after January 1, 2002, moneys contributed in the taxable year to a College Savings Pool account under Section 16.5 of the State Treasurer Act, except that amounts excluded from gross income under Section 529(c)(3)(C)(i) of the Internal Revenue Code shall not be considered moneys contributed under this subparagraph (Y). This subparagraph (Y) is exempt from the provisions of Section 250;

(Z) For each taxable year ending before December 31, 2004 ~~years 2001 and thereafter~~, for the taxable year in which the bonus depreciation deduction ~~(30% of the adjusted basis of the qualified property)~~ is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each applicable taxable year thereafter, an amount equal to "x", where:

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction ~~(30% of the adjusted basis of the qualified property)~~ was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code (for this purpose, the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return is deemed to take into account any depreciation adjustment required under Section 203(e)(2)(I)), but not including the bonus depreciation deduction; and

(2) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429), and for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

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

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

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

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

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

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

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

(b) Corporations.

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

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

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

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

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

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

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

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

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

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

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

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

(E-10) For taxable years ending on or after December 31, 2000 and before December 31, 2004 ~~2001 and thereafter~~, an amount equal to the bonus depreciation deduction ~~(30% of the adjusted basis of the qualified property)~~ taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code; ~~and~~

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

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

(E-12) For taxable years ending on or after December 31, 2004, to the extent not otherwise included in base income, an amount equal to the amount of dividends received, directly or indirectly, (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of a passive income affiliate, as defined in Section 1501(a)(29) of this Act;

(E-13) For taxable years ending on or after December 31, 2004, an amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly, to a foreign person who would be a member of the same unitary business group but for the fact the foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred. This subparagraph shall not apply to an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person who is subject in a foreign country to a tax on or measured by net income with respect to such interest;

(E-14) For taxable years ending on or after December 31, 2004, an amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence shall not apply to the extent that the same

dividends caused a reduction to the addition modification required under Section 203(b)(2)(E-13) of this Act. This subparagraph shall not apply to any item of intangible expenses or costs paid, accrued, or incurred, directly or indirectly, from a transaction with a foreign person who is subject in a foreign country to a tax on or measured by net income with respect to such item. As used in this subparagraph, the term "intangible expenses and costs" includes (1) expenses, losses, and costs for, or related to, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property; (2) losses incurred, directly or indirectly, from factoring transactions or discounting transactions; (3) royalty, patent, technical, and copyright fees; (4) licensing fees; and (5) other similar expenses and costs. For purposes of this subparagraph, "intangible property" includes patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets; and

(E-15) For taxable years ending on or after December 31, 2004, an amount equal to the amount excluded from gross income under Section 101(a) of the Internal Revenue Code with respect to an employer-owned life insurance contract, but only to the extent that this amount exceeds the sum of the premiums or other amounts paid for the contract. The addition modification provided under this subparagraph does not apply to the extent that proceeds are payable to a member of the family (within the meaning of Section 267(c)(4) of the Internal Revenue Code) of the insured, to any individual who is the designated beneficiary (other than the employer or an affiliate of the employer) of the insured under the contract, to a trust established for the benefit of any such person, or to the estate of the insured, or are to be used to purchase an equity interest in the employer (or an affiliate) from any such person.

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

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

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

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

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

(J) An amount equal to all amounts included in such total which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the United States; provided that, in the case of any statute of this State or of the United States, any treaty of the United States, the Illinois Constitution, or the United States Constitution that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the income ~~interest~~ net of bond premium amortization , interest expense incurred on indebtedness to carry the bond or other obligation, expenses incurred in producing the income to be deducted, and all other related expenses. The amount of expenses to be taken into account under this provision may not exceed the amount of income that is exempted;

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

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

(M) For any taxpayer that is a financial organization within the meaning of Section 304(c) of this Act, an amount included in such total as interest income from a loan or loans made by such taxpayer to a borrower, to the extent that such a loan is secured by property which is eligible for the Enterprise Zone Investment Credit. To determine the portion of a loan or loans that is secured by property eligible for a Section 201(f) investment credit to the borrower, the entire

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

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

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

(O) An amount equal to: (i) 85% for taxable years ending on or before December 31, 1992, or, a percentage equal to the percentage allowable under Section 243(a)(1) of the Internal Revenue Code of 1986 for taxable years ending after December 31, 1992, of the amount by which dividends included in taxable income and received from a corporation that is not created or organized under the laws of the United States or any state or political subdivision thereof, including, for taxable years ending on or after December 31, 1988, dividends received or deemed received or paid or deemed paid under Sections 951 through 964 of the Internal Revenue Code, exceed the amount of the modification provided under subparagraph (G) of paragraph (2) of this subsection (b) which is related to such dividends; plus (ii) 100% of the amount by which dividends, included in taxable income and received, including, for taxable years ending on or after December 31, 1988, dividends received or deemed received or paid or deemed paid under Sections 951 through 964 of the Internal Revenue Code, from any such corporation specified in clause (i) that would but for the provisions of Section 1504 (b) (3) of the Internal Revenue Code be treated as a member of the affiliated group which includes the dividend recipient, exceed the amount of the modification provided under subparagraph (G) of paragraph (2) of this subsection (b) which is related to such dividends;

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

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

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

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

(T) For each taxable year ending before December 31, 2004 ~~years 2001 and thereafter~~, for the

taxable year in which the bonus depreciation deduction ~~(30% of the adjusted basis of the qualified property)~~

is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each applicable taxable year thereafter, an amount equal to "x", where:

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction ~~(30% of the adjusted basis of the qualified property)~~ was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code (for this purpose, the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return is deemed to take into account any depreciation adjustment required under Section 203(e)(2)(I)), but not including the bonus depreciation deduction; and

(2) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429), and for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

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

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

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

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

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

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

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

(c) Trusts and estates.

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

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

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

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

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

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

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

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

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

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

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

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

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

(G-10) For taxable years ending on or after December 31, 2000 and before December 31, 2004 ~~2001 and thereafter~~, an amount equal to the bonus depreciation deduction ~~(30% of the adjusted basis of the qualified property)~~ taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code; and

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

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

(G-12) For taxable years ending on or after December 31, 2004, an amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred. This subparagraph shall not apply to an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person that is subject in a foreign

country to a tax on or measured by net income with respect to such interest;

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

(G-15) For taxable years ending on or after December 31, 2004, an amount equal to the amount excluded from gross income under Section 101(a) of the Internal Revenue Code with respect to an employer-owned life insurance contract, but only to the extent that this amount exceeds the sum of the premiums or other amounts paid for the contract. The addition modification provided under this item does not apply to the extent that proceeds are payable to a member of the family (within the meaning of Section 267(c)(4) of the Internal Revenue Code) of the insured, to any individual who is the designated beneficiary (other than the employer or an affiliate of the employer) of the insured under the contract, to a trust established for the benefit of any such person, or to the estate of the insured, or are to be used to purchase an equity interest in the employer (or an affiliate) from any such person.

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

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

(I) The valuation limitation amount;

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

(K) An amount equal to all amounts included in taxable income as modified by subparagraphs (A), (B), (C), (D), (E), (F) and (G) which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the United States; provided that, in the case of any statute of this State or of the United States, any treaty of the United States, the Illinois Constitution, or the United States Constitution that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the income ~~interest~~ net of bond premium amortization , interest expense incurred on indebtedness to carry the bond or other obligation, expenses incurred in producing the income to be deducted, and all other related expenses. The amount of expenses to be taken into account under this provision may not exceed the amount of income that is exempted;

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

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

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

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

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

(Q) For taxable year 1999 and thereafter, an amount equal to the amount of any (i) distributions, to the extent includible in gross income for federal income tax purposes, made to the taxpayer because of his or her status as a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim and (ii) items of income, to the extent includible in gross income for federal income tax purposes, attributable to, derived from or in any way related to assets stolen from, hidden from, or otherwise lost to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime immediately prior to, during, and immediately after World War II, including, but not limited to, interest on the proceeds receivable as insurance under policies issued to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime by European insurance companies immediately prior to and during World War II; provided, however, this subtraction from federal adjusted gross income does not apply to assets acquired with such assets or with the proceeds from the sale of such assets; provided, further, this paragraph shall only apply to a taxpayer who was the first recipient of such assets after their recovery and who is a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim. The amount of and the eligibility for any public assistance, benefit, or similar entitlement is not affected by the inclusion of items (i) and (ii) of this paragraph in gross income for federal income tax purposes. This paragraph is exempt from the provisions of Section 250;

(R) For each taxable year ending before December 31, 2004 ~~years 2001 and thereafter~~, for the taxable year in which the bonus depreciation deduction ~~(30% of the adjusted basis of the qualified property)~~ is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each applicable taxable year thereafter, an amount equal to "x", where:

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction ~~(30% of the adjusted basis of the qualified property)~~ was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code (for this purpose, the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return is deemed to take into account any depreciation adjustment required under Section 203(e)(2)(I)), but not including the bonus depreciation deduction; and

(2) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429), and for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

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

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

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

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

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

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

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

(d) Partnerships.

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

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

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

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

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

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

(D-5) For taxable years ending on or after December 31, 2000 and before December 31, 2004 ~~2001 and thereafter~~, an amount equal to the bonus depreciation deduction ~~(30% of the adjusted basis of the qualified property)~~ taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code; ~~and~~

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

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

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

to the extent that dividends were included in base income for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred. This subparagraph shall not apply to an item of interest paid, accrued, or incurred, directly or indirectly, to a foreign person that is subject in a foreign country to a tax on or measured by net income with respect to such interest;

(D-8) For taxable years ending on or after December 31, 2004, an amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred or accrued. The preceding sentence shall not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203 (d)(2)(D-7) of this Act. This subparagraph shall not apply to any item of intangible expenses or costs paid, accrued, or incurred, directly or indirectly, from a transaction with a foreign person that is subject in a foreign country to a tax on or measured by net income with respect to such item. As used in this subparagraph, the term "intangible expenses and costs" includes (1) expenses, losses, and costs for, or related to, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property; (2) losses incurred, directly or indirectly, from factoring transactions or discounting transactions; (3) royalty, patent, technical, and copyright fees; (4) licensing fees; and (5) other similar expenses and costs. For purposes of this subparagraph, "intangible property" includes patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets; and

(D-10) For taxable years ending on or after December 31, 2004, an amount equal to the amount excluded from gross income under Section 101(a) of the Internal Revenue Code with respect to an employer-owned life insurance contract, but only to the extent that this amount exceeds the sum of the premiums or other amounts paid for the contract. The addition modification provided under this item does not apply to the extent that proceeds are payable to a member of the family (within the meaning of Section 267(c)(4) of the Internal Revenue Code) of the insured, to any individual who is the designated beneficiary (other than the employer or an affiliate of the employer) of the insured under the contract, to a trust established for the benefit of any such person, or to the estate of the insured, or are to be used to purchase an equity interest in the employer (or an affiliate) from any such person;

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

(E) The valuation limitation amount;

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

(G) An amount equal to all amounts included in taxable income as modified by subparagraphs (A), (B), (C) and (D) which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the United States; provided that, in the case of any statute of this State or of the United States, any treaty of the United States, the Illinois Constitution, or the United States Constitution that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the interest net of bond premium amortization, interest expense incurred on indebtedness to carry the bond or other obligation, expenses incurred in producing the income to be deducted, and all other related expenses. The amount of expenses to be taken into account under this provision may not exceed the amount of income that is exempted;

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

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

reason of Section 501(a) of the Internal Revenue Code;

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

(K) An amount equal to those dividends included in such total which were paid by a corporation which conducts business operations in an Enterprise Zone or zones created under the Illinois Enterprise Zone Act, enacted by the 82nd General Assembly, and conducts substantially all of its operations in an Enterprise Zone or Zones;

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

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

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

(O) For each taxable year ending before December 31, 2004 ~~years 2001 and thereafter~~, for the taxable year in which the bonus depreciation deduction ~~(30% of the adjusted basis of the qualified property)~~ is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each applicable taxable year thereafter, an amount equal to "x", where:

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction ~~(30% of the adjusted basis of the qualified property)~~ was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code (for this purpose, the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return is deemed to take into account any depreciation adjustment required under Section 203(e)(2)(I)), but not including the bonus depreciation deduction; and

(2) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429), and for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

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

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

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

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

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

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

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

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

(1) In general. Subject to the provisions of paragraph (2) and subsection (b) (3), for purposes of this Section and Section 803(e), a taxpayer's gross income, adjusted gross income, or taxable income for the taxable year shall mean the amount of gross income, adjusted gross income or taxable income properly reportable for federal income tax purposes for the taxable year under the provisions of the Internal Revenue Code. With respect to taxable years ending on or after December 31, 2004, for purposes of determining the amount of gross income, adjusted gross income, or taxable income properly reportable for federal income tax purposes: (i) there shall be taken into account the depreciation adjustment and the basis adjustment required by paragraph (2)(I) of this subsection; (ii) the provisions of Section 179 of the Internal Revenue Code apply to the extent that the Section is elected for federal income tax purposes with respect to "Section 179 property", except that the dollar limitation of Section 179(b)(1) shall be deemed to be $25,000 for all taxable years and the reduction in limitation under Section 179(b)(2) shall be deemed to be $200,000 for all taxable years, without any adjustment under Section 179(b)(5); and (iii) the gross income, adjusted gross income, or taxable income shall be determined as if the Internal Revenue Code required that, with respect to property placed in service in taxable years ending on or after December 31, 2004, the depreciation deduction determined under Section 168 of the Internal Revenue Code must be determined under Section 168(g)(2) (including the straight-line method and without any special allowance under Section 168(k)). Taxable income may be less than zero. However, for taxable years ending on or after December 31, 1986, net operating loss carryforwards from taxable years ending prior to December 31, 1986, may not exceed the sum of federal taxable income for the taxable year before net operating loss deduction, plus the excess of addition modifications over subtraction modifications for the taxable year. For taxable years ending prior to December 31, 1986, taxable income may never be an amount in excess of the net operating loss for the taxable year as defined in subsections (c) and (d) of Section 172 of the Internal Revenue Code, provided that when taxable income of a corporation (other than a Subchapter S corporation), trust, or estate is less than zero and addition modifications, other than those provided by subparagraph (E) of paragraph (2) of subsection (b) for corporations or subparagraph (E) of paragraph (2) of subsection (c) for trusts and estates, exceed subtraction modifications, an addition modification must be made under those subparagraphs for any other taxable year to which the taxable income less than zero (net operating loss) is applied under Section 172 of the Internal Revenue Code or under subparagraph (E) of paragraph (2) of this subsection (e) applied in conjunction with Section 172 of the Internal Revenue Code.

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

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

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

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

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

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

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

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

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

(I) Depreciation and basis adjustments for all taxpayers.

(A) Depreciation adjustment. With respect to property placed in service in taxable years ending before December 31, 2004, the depreciation deduction allowed under Section 167 of the Internal Revenue Code, with respect to property as to which the deduction is determined under Section 168 of the Code, shall be determined as if the Internal Revenue Code required a switch to the straight-line method beginning with that property's adjusted basis for federal income tax purposes as of the beginning of the last taxable year beginning before December 31, 2004.

(B) Basis adjustment. With respect to property subject to subparagraph (A) of this paragraph, the adjustment otherwise required under Section 1016 of the Internal Revenue Code shall take into account the depreciation adjustment required under subparagraph (A).

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

(f) Valuation limitation amount.

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

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

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

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

(A) If the fair market value of property referred to in paragraph (1) was readily ascertainable on August 1, 1969, the pre-August 1, 1969 appreciation amount for such property is the lesser of (i) the excess of such fair market value over the taxpayer's basis (for determining gain) for such property on that date (determined under the Internal Revenue Code as in effect on that

date), or (ii) the total gain realized and reportable for federal income tax purposes in respect of the sale, exchange or other disposition of such property.

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

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

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

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

(i) The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to any small business as defined in the Small Business Advisory Act.

(Source: P.A. 91-192, eff. 7-20-99; 91-205, eff. 7-20-99; 91-357, eff. 7-29-99; 91-541, eff. 8-13-99; 91-676, eff. 12-23-99; 91-845, eff. 6-22-00; 91-913, eff. 1-1-01; 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439, eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02; 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; revised 10-15-03.)

(35 ILCS 5/205) (from Ch. 120, par. 2-205)

Sec. 205. Exempt organizations.

(a) Charitable, etc. organizations. The base income of an organization which is exempt from the federal income tax by reason of Section 501(a) of the Internal Revenue Code shall not be determined under section 203 of this Act, but shall be its unrelated business taxable income as determined under section 512 of the Internal Revenue Code, without any deduction for the tax imposed by this Act. The standard exemption provided by section 204 of this Act shall not be allowed in determining the net income of an organization to which this subsection applies.

(b) Partnerships. A partnership as such shall not be subject to the tax imposed by subsection 201 (a) and (b) of this Act, but shall be subject to the replacement tax imposed by subsection 201 (c) and (d) of this Act and shall compute its base income as described in subsection (d) of Section 203 of this Act. For taxable years ending on or after December 31, 2004, an investment partnership, as defined in Section 1501(a)(11.5) of this Act, shall not be subject to the tax imposed by subsections (c) and (d) of Section 201 of this Act. A partnership shall file such returns and other information at such time and in such manner as may be required under Article 5 of this Act. The partners in a partnership shall be liable for the replacement tax imposed by subsection 201 (c) and (d) of this Act on such partnership, to the extent such tax is not paid by the partnership, as provided under the laws of Illinois governing the liability of partners for the obligations of a partnership. Persons carrying on business as partners shall be liable for the tax imposed by subsection 201 (a) and (b) of this Act only in their separate or individual capacities.

(c) Subchapter S corporations. A Subchapter S corporation shall not be subject to the tax imposed by subsection 201 (a) and (b) of this Act but shall be subject to the replacement tax imposed by subsection 201 (c) and (d) of this Act and shall file such returns and other information at such time and in such manner as may be required under Article 5 of this Act.

(d) Combat zone death. An individual relieved from the federal income tax for any taxable year by reason of section 692 of the Internal Revenue Code shall not be subject to the tax imposed by this Act for such taxable year.

(e) Certain trusts. A common trust fund described in Section 584 of the Internal Revenue Code, and any other trust to the extent that the grantor is treated as the owner thereof under sections 671 through 678 of the Internal Revenue Code shall not be subject to the tax imposed by this Act.

(f) Certain business activities. A person not otherwise subject to the tax imposed by this Act shall not become subject to the tax imposed by this Act by reason of:

(1) that person's ownership of tangible personal property located at the premises of a printer in this State with which the person has contracted for printing, or

(2) activities of the person's employees or agents located solely at the premises of a

printer and related to quality control, distribution, or printing services performed by a printer in the State with which the person has contracted for printing.

(g) The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to any small business as defined in the Small Business Advisory Act.

(Source: P.A. 88-361.)

(35 ILCS 5/207) (from Ch. 120, par. 2-207)

Sec. 207. Net Losses.

(a) If after applying all of the (i) modifications provided for in paragraph (2) of Section 203(b), paragraph (2) of Section 203(c) and paragraph (2) of Section 203(d) and (ii) the allocation and apportionment provisions of Article 3 of this Act and subsection (c) of this Section, the taxpayer's net income results in a loss;

(1) for any taxable year ending prior to December 31, 1999, such loss shall be allowed as a carryover or carryback deduction in the manner allowed under Section 172 of the Internal Revenue Code;

(2) for any taxable year ending on or after December 31, 1999 and prior to December 31, 2003, such loss shall be allowed as a carryback to each of the 2 taxable years preceding the taxable year of such loss and shall be a net operating loss carryover to each of the 20 taxable years following the taxable year of such loss; and

(3) for any taxable year ending on or after December 31, 2003, such loss shall be allowed as a net operating loss carryover to each of the 12 taxable years following the taxable year of such loss.

(a-5) Election to relinquish carryback and order of application of losses.

(A) For losses incurred in tax years ending prior to December 31, 2003, the taxpayer may elect to relinquish the entire carryback period with respect to such loss. Such election shall be made in the form and manner prescribed by the Department and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year in which such loss is incurred, and such election, once made, shall be irrevocable.

(B) The entire amount of such loss shall be carried to the earliest taxable year to which such loss may be carried. The amount of such loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of such loss over the sum of the deductions for carryback or carryover of such loss allowable for each of the prior taxable years to which such loss may be carried.

(b) Any loss determined under subsection (a) of this Section must be carried back or carried forward in the same manner for purposes of subsections (a) and (b) of Section 201 of this Act as for purposes of subsections (c) and (d) of Section 201 of this Act.

(c) Notwithstanding any other provision of this Act, for each taxable year ending on or after December 31, 2004, for purposes of computing the loss for the taxable year under subsection (a) of this Section and the deduction taken into account for the taxable year for a net operating loss carryover under paragraphs (1), (2), and (3) of subsection (a) of this Section, the loss and net operating loss carryover shall be reduced in an amount equal to the reduction to the net operating loss and net operating loss carryover to the taxable year, respectively, required under Section 108(b)(2)(A) of the Internal Revenue Code, multiplied by a fraction, the numerator of which is the amount of discharge of indebtedness income that is excluded from gross income for the taxable year (but only if the taxable year ends on or after December 31, 2004) under Section 108(a) of the Internal Revenue Code and that would have been allocated and apportioned to this State under Article 3 of this Act but for that exclusion, and the denominator of which is the total amount of discharge of indebtedness income excluded from gross income under Section 108(a) of the Internal Revenue Code for the taxable year. The reduction required under this subsection (c) shall be made after the determination of Illinois net income for the taxable year in which the indebtedness is discharged.

(d) The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to any small business as defined in the Small Business Advisory Act.

(Source: P.A. 93-29, eff. 6-20-03.)

(35 ILCS 5/304) (from Ch. 120, par. 3-304)

Sec. 304. Business income of persons other than residents.

(a) In general. The business income of a person other than a resident shall be allocated to this State if such person's business income is derived solely from this State. If a person other than a resident derives business income from this State and one or more other states, then, for tax years ending on or before December 30, 1998, and except as otherwise provided by this Section, such person's business income shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the

sum of the property factor (if any), the payroll factor (if any) and 200% of the sales factor (if any), and the denominator of which is 4 reduced by the number of factors other than the sales factor which have a denominator of zero and by an additional 2 if the sales factor has a denominator of zero. For tax years ending on or after December 31, 1998, and except as otherwise provided by this Section, persons other than residents who derive business income from this State and one or more other states shall compute their apportionment factor by weighting their property, payroll, and sales factors as provided in subsection (h) of this Section.

(1) Property factor.

(A) The property factor is a fraction, the numerator of which is the average value of the person's real and tangible personal property owned or rented and used in the trade or business in this State during the taxable year and the denominator of which is the average value of all the person's real and tangible personal property owned or rented and used in the trade or business during the taxable year.

(B) Property owned by the person is valued at its original cost. Property rented by the person is valued at 8 times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the person less any annual rental rate received by the person from sub-rentals.

(C) The average value of property shall be determined by averaging the values at the beginning and ending of the taxable year but the Director may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the person's property.

(2) Payroll factor.

(A) The payroll factor is a fraction, the numerator of which is the total amount paid in this State during the taxable year by the person for compensation, and the denominator of which is the total compensation paid everywhere during the taxable year.

(B) Compensation is paid in this State if:

(i) The individual's service is performed entirely within this State;

(ii) The individual's service is performed both within and without this State, but the service performed without this State is incidental to the individual's service performed within this State; or

(iii) Some of the service is performed within this State and either the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is within this State, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

Beginning with taxable years ending on or after December 31, 1992, for residents of states that impose a comparable tax liability on residents of this State, for purposes of item (i) of this paragraph (B), in the case of persons who perform personal services under personal service contracts for sports performances, services by that person at a sporting event taking place in Illinois shall be deemed to be a performance entirely within this State.

(3) Sales factor.

(A) The sales factor is a fraction, the numerator of which is the total sales of the person in this State during the taxable year, and the denominator of which is the total sales of the person everywhere during the taxable year.

(B) Sales of tangible personal property are in this State if:

(i) The property is delivered or shipped to a purchaser, other than the United States government, within this State regardless of the f. o. b. point or other conditions of the sale; or

(ii) The property is shipped from an office, store, warehouse, factory or other place of storage in this State and either the purchaser is the United States government or the person is not taxable in the state of the purchaser; provided, however, that premises owned or leased by a person who has independently contracted with the seller for the printing of newspapers, periodicals or books shall not be deemed to be an office, store, warehouse, factory or other place of storage for purposes of this Section. For taxable years ending before December 31, 2004, sales ~~Sales~~ of tangible personal property are not in this State if the seller and purchaser would be members of the same unitary business group but for the fact that either the seller or purchaser is a person with 80% or more of total business activity outside of the United States and the property is purchased for resale.

(B-1) Patents, copyrights, trademarks, and similar items of intangible personal property.

(i) Gross receipts from the licensing, sale, or other disposition of a patent,

copyright, trademark, or similar item of intangible personal property are in this State to the extent the item is utilized in this State during the year the gross receipts are included in gross income.

(ii) Place of utilization.

(I) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If a patent is utilized in more than one state, the extent to which it is utilized in any one state shall be a fraction equal to the gross receipts of the licensee or purchaser from sales or leases of items produced, fabricated, manufactured, or processed within that state using the patent and of patented items produced within that state, divided by the total of such gross receipts for all states in which the patent is utilized.

(II) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If a copyright is utilized in more than one state, the extent to which it is utilized in any one state shall be a fraction equal to the gross receipts from sales or licenses of materials printed or published in that state divided by the total of such gross receipts for all states in which the copyright is utilized.

(III) Trademarks and other items of intangible personal property governed by this paragraph (B-1) are utilized in the state in which the commercial domicile of the licensee or purchaser is located.

(iii) If the state of utilization of an item of property governed by this paragraph (B-1) cannot be determined from the taxpayer's books and records or from the books and records of any person related to the taxpayer within the meaning of Section 267(b) of the Internal Revenue Code, 26 U.S.C. 267, the gross receipts attributable to that item shall be excluded from both the numerator and the denominator of the sales factor.

(B-2) Gross receipts from the license, sale, or other disposition of patents, copyrights, trademarks, and similar items of intangible personal property may be included in the numerator or denominator of the sales factor only if gross receipts from licenses, sales, or other disposition of such items comprise more than 50% of the taxpayer's total gross receipts included in gross income during the tax year and during each of the 2 immediately preceding tax years; provided that, when a taxpayer is a member of a unitary business group, such determination shall be made on the basis of the gross receipts of the entire unitary business group.

(C) For taxable years ending before December 31, 2004, sales ~~Sales~~, other than sales governed by paragraphs (B) , ~~and~~ (B-1) , and (B-2), are in this State if:

(i) The income-producing activity is performed in this State; or

(ii) The income-producing activity is performed both within and without this State and a greater proportion of the income-producing activity is performed within this State than without this State, based on performance costs.

(C-5) For taxable years ending on or after December 31, 2004, sales, other than sales governed by paragraphs (B), (B-1), and (B-2), are in this State if the purchaser is in this State or the sale is otherwise attributable to this State's marketplace. The following examples are illustrative:

(i) Sales from the sale or lease of real property are in this State if the property is located in this State.

(ii) Sales from the lease or rental of tangible personal property are in this State if the property is located in this State during the rental period. Sales from the lease or rental of tangible personal property that is characteristically moving property, including, but not limited to, motor vehicles, rolling stock, aircraft, vessels, or mobile equipment are in this State to the extent that the property is used in this State.

(iii) Sales of intangible personal property are in this State if the purchaser uses or realizes benefit from the property in this State. If the purchaser uses or realizes benefit from the the property both within and without this State, the gross receipts from the sale shall be divided among those states having jurisdiction to tax the sale in proportion to the use or benefit in each state. If the proportionate use or benefit in this State cannot be determined, the sale shall be excluded from both the numerator and the denominator of the sales factor.

(iv) Sales of services are in this State if the benefit of the service is enjoyed or realized in this State. If the benefit of the service is enjoyed or realized both within and without this State, the gross receipts from the sale shall be divided among those states having jurisdiction to tax the sale in proportion to the benefit of service enjoyed or realized in each state. If the proportionate benefit in this State cannot be determined, the sale shall be excluded from both the numerator and the denominator of the sales factor. The Department may adopt rules prescribing where the benefit of specific types of service, including, but not limited to, telecommunications, broadcast, cable, advertising, publishing, and utility service, is enjoyed or realized.

(D) For taxable years ending on or after December 31, 1995, the following items of income shall not be included in the numerator or denominator of the sales factor: dividends; amounts included under Section 78 of the Internal Revenue Code; and Subpart F income as defined in Section 952 of the Internal Revenue Code. No inference shall be drawn from the enactment of this paragraph (D) in construing this Section for taxable years ending before December 31, 1995.

(E) Paragraphs (B-1) and (B-2) shall apply to tax years ending on or after December 31, 1999, provided that a taxpayer may elect to apply the provisions of these paragraphs to prior tax years. Such election shall be made in the form and manner prescribed by the Department, shall be irrevocable, and shall apply to all tax years; provided that, if a taxpayer's Illinois income tax liability for any tax year, as assessed under Section 903 prior to January 1, 1999, was computed in a manner contrary to the provisions of paragraphs (B-1) or (B-2), no refund shall be payable to the taxpayer for that tax year to the extent such refund is the result of applying the provisions of paragraph (B-1) or (B-2) retroactively. In the case of a unitary business group, such election shall apply to all members of such group for every tax year such group is in existence, but shall not apply to any taxpayer for any period during which that taxpayer is not a member of such group.

(b) Insurance companies.

(1) In general. Except as otherwise provided by paragraph (2), business income of an insurance company for a taxable year shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is the direct premiums written for insurance upon property or risk in this State, and the denominator of which is the direct premiums written for insurance upon property or risk everywhere. For purposes of this subsection, the term "direct premiums written" means the total amount of direct premiums written, assessments and annuity considerations, and surplus line contracts, but excluding deposit-type funds, as reported for the taxable year on the annual statement filed ~~by the company with the Illinois Director of Insurance~~ in the form approved by the National Convention of Insurance Commissioners as filed by the taxpayer with the Illinois Department of Insurance or, if no report is filed with the Illinois Department of Insurance, as filed by the taxpayer with its state of domicile. If no such annual report is filed with any of the United States for a particular year, "direct premiums written" shall be determined by applying the instructions to the Illinois annual report form for that year ~~or such other form as may be prescribed in lieu thereof~~.

(2) Reinsurance. If the principal source of premiums written by an insurance company consists of premiums for reinsurance accepted by it, the business income of such company shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is the sum of (i) direct premiums written for insurance upon property or risk in this State, plus (ii) premiums written for reinsurance accepted in respect of property or risk in this State, and the denominator of which is the sum of (iii) direct premiums written for insurance upon property or risk everywhere, plus (iv) premiums written for reinsurance accepted in respect of property or risk everywhere. For taxable years ending before December 31, 2004, for purposes of this paragraph, premiums written for reinsurance accepted in respect of property or risk in this State, whether or not otherwise determinable, may, at the election of the company, be determined on the basis of the proportion which premiums written for reinsurance accepted from companies commercially domiciled in Illinois bears to premiums written for reinsurance accepted from all sources, or, alternatively, in the proportion which the sum of the direct premiums written for insurance upon property or risk in this State by each ceding company from which reinsurance is accepted bears to the sum of the total direct premiums written by each such ceding company for the taxable year.

(c) Financial organizations.

(1) In general. For taxable years ending before December 31, 2004, business ~~Business~~ income of a financial organization shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is its business income from sources within this State, and the denominator of which is its business income from all sources. For the purposes of this subsection, the business income of a financial organization from sources within this State is the sum of the amounts referred to in subparagraphs (A) through (E) following, but excluding the adjusted income of an international banking facility as determined in paragraph (2):

(A) Fees, commissions or other compensation for financial services rendered within this State;

(B) Gross profits from trading in stocks, bonds or other securities managed within this State;

(C) Dividends, and interest from Illinois customers, which are received within this State;

(D) Interest charged to customers at places of business maintained within this

State for carrying debit balances of margin accounts, without deduction of any costs incurred in carrying such accounts; and

(E) Any other gross income resulting from the operation as a financial organization within this State. In computing the amounts referred to in paragraphs (A) through (E) of this subsection, any amount received by a member of an affiliated group (determined under Section 1504(a) of the Internal Revenue Code but without reference to whether any such corporation is an "includible corporation" under Section 1504(b) of the Internal Revenue Code) from another member of such group shall be included only to the extent such amount exceeds expenses of the recipient directly related thereto.

(2) International Banking Facility. For taxable years ending before December 31, 2004:

(A) Adjusted Income. The adjusted income of an international banking facility is its income reduced by the amount of the floor amount.

(B) Floor Amount. The floor amount shall be the amount, if any, determined by multiplying the income of the international banking facility by a fraction, not greater than one, which is determined as follows:

(i) The numerator shall be:

The average aggregate, determined on a quarterly basis, of the financial organization's loans to banks in foreign countries, to foreign domiciled borrowers (except where secured primarily by real estate) and to foreign governments and other foreign official institutions, as reported for its branches, agencies and offices within the state on its "Consolidated Report of Condition", Schedule A, Lines 2.c., 5.b., and 7.a., which was filed with the Federal Deposit Insurance Corporation and other regulatory authorities, for the year 1980, minus

The average aggregate, determined on a quarterly basis, of such loans (other than loans of an international banking facility), as reported by the financial institution for its branches, agencies and offices within the state, on the corresponding Schedule and lines of the Consolidated Report of Condition for the current taxable year, provided, however, that in no case shall the amount determined in this clause (the subtrahend) exceed the amount determined in the preceding clause (the minuend); and

(ii) the denominator shall be the average aggregate, determined on a quarterly basis, of the international banking facility's loans to banks in foreign countries, to foreign domiciled borrowers (except where secured primarily by real estate) and to foreign governments and other foreign official institutions, which were recorded in its financial accounts for the current taxable year.

(C) Change to Consolidated Report of Condition and in Qualification. In the event the Consolidated Report of Condition which is filed with the Federal Deposit Insurance Corporation and other regulatory authorities is altered so that the information required for determining the floor amount is not found on Schedule A, lines 2.c., 5.b. and 7.a., the financial institution shall notify the Department and the Department may, by regulations or otherwise, prescribe or authorize the use of an alternative source for such information. The financial institution shall also notify the Department should its international banking facility fail to qualify as such, in whole or in part, or should there be any amendment or change to the Consolidated Report of Condition, as originally filed, to the extent such amendment or change alters the information used in determining the floor amount.

(3) For taxable years ending on or after December 31, 2004, the business income of a financial organization shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is its gross receipts from sources in this State or otherwise attributable to this State's marketplace and the denominator of which is its gross receipts everywhere during the taxable year. "Gross receipts" for purposes of this subparagraph (3) means gross income, including net taxable gain on disposition of assets, including securities and money market instruments, when derived from transactions and activities in the regular course of the financial organization's trade or business. The following examples are illustrative:

(i) Receipts from the lease or rental of real or tangible personal property are in this State if the property is located in this State during the rental period. Receipts from the lease or rental of tangible personal property that is characteristically moving property, including, but not limited to, motor vehicles, rolling stock, aircraft, vessels, or mobile equipment are in this State to the extent that the property is used in this State.

(ii) Interest income, commissions, fees, gains on disposition, and other receipts from assets in the nature of loans that are secured primarily by real estate or tangible personal property are attributable to this State's marketplace if the security is located in this State.

(iii) Interest income, commissions, fees, gains on disposition, and other receipts from consumer loans that are not secured by real or tangible personal property are this State if the debtor is a resident of this State.

(iv) Interest income, commissions, fees, gains on disposition, and other receipts from commercial loans and installment obligations that are not unsecured by real or tangible personal property are in this State if the proceeds of the loan are to be applied in this State. If it cannot be determined where the funds are to be applied, the income and receipts are attributable to this State's marketplace if the office of the borrower from which the loan was procured in the regular course of business is located in this State. If the location of this office cannot be determined, such receipts shall be excluded from the numerator and denominator of the sales factor.

(v) Interest income, fees, gains on disposition, service charges, and other receipts from credit card receivables are in this State if the card charges are regularly billed to a customer in this State.

(vi) Receipts from the performance of fiduciary and other services are in this State if the benefit of the service is enjoyed or realized in this State. If the benefit of the service is enjoyed or realized both within and without this State, the gross receipts from the sale shall be divided among those states having jurisdiction to tax the sale in proportion to the benefit of service enjoyed or realized in each state. If the proportionate benefit in this State cannot be determined, the sale shall be excluded from both the numerator and the denominator of the gross receipts factor.

(vii) Receipts from the issuance of travelers checks and money orders are in this State if the checks and money orders are issued from a location within this State.

(viii) In the case of a financial organization that accepts deposits, receipts from investments and from money market instruments are apportioned to this State based on the ratio that the total deposits of the financial organization (including all members of the financial organization's unitary group) from this State, its residents, any business with an office or other place of business in this State, and its political subdivisions, agencies, and instrumentalities bear to total deposits everywhere. For purposes of this subdivision, deposits must be attributed to this State under the preceding sentence, whether or not the deposits are accepted or maintained by the financial organization at locations within this State. In the case of a financial organization that does not accept deposits, receipts from investments in securities and from money market instruments shall be excluded from the numerator and the denominator of the gross receipts factor.

(4) As used in subparagraph (3), "deposit" includes but is not limited to:

(i) the unpaid balance of money or its equivalent received or held by a financial institution in the usual course of business and for which it has given or is obligated to give credit, either conditionally or unconditionally, to a commercial, checking, savings, time, or thrift account whether or not advance notice is required to withdraw the credited funds, or which is evidenced by its certificate of deposit, thrift certificate, investment certificate, or certificate of indebtedness, or other similar name, or a check or draft drawn against a deposit account and certified by the financial organization, or a letter of credit or a traveler's check on which the financial organization is primarily liable. However, without limiting the generality of the term "money or its equivalent", any such account or instrument must be regarded as evidencing the receipt of the equivalent of money when credited or issued in exchange for checks or drafts or for a promissory note upon which the person obtaining the credit or instrument is primarily or secondarily liable, or for a charge against a deposit account, or in settlement of checks, drafts, or other instruments forwarded to the bank for collection;

(ii) trust funds received or held by the financial organization, whether held in the trust department or held or deposited in any other department of the financial organization;

(iii) money received or held by a financial organization, or the credit given for money or its equivalent received or held by a financial organization, in the usual course of business for a special or specific purpose, regardless of the legal relationship so established. Under this paragraph, "deposit" includes, but is not limited to, escrow funds, funds held as security for an obligation due to the financial organization or others, including funds held as dealers reserves, or for securities loaned by the financial organization, funds deposited by a debtor to meet maturing obligations, funds deposited as advance payment on subscriptions to United States government securities, funds held for distribution or purchase of securities, funds held to meet its acceptances or letters of credit, and withheld taxes. It does not include funds received by the financial organization for immediate application to the reduction of an indebtedness to the receiving financial organization, or under condition that the receipt of the funds immediately reduces or extinguishes the indebtedness;

(iv) outstanding drafts, including advice of another financial organization, cashier's checks, money orders, or other officer's checks issued in the usual course of business for any purpose, but not including those issued in payment for services, dividends, or purchases or other costs or expenses of the

financial organization itself; and

(v) money or its equivalent held as a credit balance by a financial organization on behalf of its customer if the entity is engaged in soliciting and holding such balances in the regular course of its business.

(5) As used in subparagraph (3), "money market instruments" includes but is not limited to:

(i) Interest-bearing deposits, federal funds sold and securities purchased under agreements to resell, commercial paper, banker's acceptances, and purchased certificates of deposit and similar instruments to the extent that the instruments are reflected as assets under generally accepted accounting principles.

"Securities" means United States Treasury securities, obligations of United States government agencies and corporations, obligations of state and political subdivisions, corporate stock, bonds, and other securities, participations in securities backed by mortgages held by United States or state government agencies, loan-backed securities and similar investments to the extent the investments are reflected as assets under generally accepted accounting principles.

(ii) For purposes of subparagraph (3), "money market instruments shall include investments in investment partnerships, trusts, pools, funds, investment companies, or any similar entity in proportion to the investment of such entity in money market instruments, and "securities" shall include investments in investment partnerships, trusts, pools, funds, investment companies, or any similar entity in proportion to the investment of such entity in securities.

(d) Transportation services. For taxable years ending before December 31, 2004, business ~~Business~~ income derived from furnishing transportation services shall be apportioned to this State in accordance with paragraphs (1) and (2):

(1) Such business income (other than that derived from transportation by pipeline) shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is the revenue miles of the person in this State, and the denominator of which is the revenue miles of the person everywhere. For purposes of this paragraph, a revenue mile is the transportation of 1 passenger or 1 net ton of freight the distance of 1 mile for a consideration. Where a person is engaged in the transportation of both passengers and freight, the fraction above referred to shall be determined by means of an average of the passenger revenue mile fraction and the freight revenue mile fraction, weighted to reflect the person's

(A) relative railway operating income from total passenger and total freight service, as reported to the Interstate Commerce Commission, in the case of transportation by railroad, and

(B) relative gross receipts from passenger and freight transportation, in case of transportation other than by railroad.

(2) Such business income derived from transportation by pipeline shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is the revenue miles of the person in this State, and the denominator of which is the revenue miles of the person everywhere. For the purposes of this paragraph, a revenue mile is the transportation by pipeline of 1 barrel of oil, 1,000 cubic feet of gas, or of any specified quantity of any other substance, the distance of 1 mile for a consideration.

(3) For taxable years ending on or after December 31, 2004, business income derived from providing transportation services other than airline services shall be apportioned to this State by using a fraction, (a) the numerator of which shall be (i) all receipts from any movement or shipment of people, goods, mail , oil, gas, or any other substance that both originates and terminates in this State, plus (ii) that portion of the person's gross receipts from movements or shipments of people, goods, mail, oil, gas, or any other substance passing through, into, or out of this State, that is determined by the ratio that the miles traveled in this State bears to total miles from point of origin to point of destination and (b) the denominator of which shall be all revenue derived from the movement or shipment of people, goods, mail, oil, gas, or any other substance. If a person derives business income from activities other than the provision of transportation services, only its business income from transportation services shall be apportioned according to this subsection.

(4) For taxable years ending on or after December 31, 2004, business income derived from providing airline services shall be apportioned to this State by using a fraction, (a) the numerator of which shall be all receipts from any movement or shipment of people, goods, or mail, multiplied by the ratio equal to arrivals of aircraft to and departures from this State weighted as to cost of aircraft by type divided by total arrivals and departures of aircraft weighted as to cost of aircraft by type and (b) the denominator of which shall be all revenue derived from the movement or shipment of people, goods, or mail. If a person derives business income from activities other than the provision of airline services only,

its business income from airline services shall be apportioned according to this subsection.

(e) Combined apportionment. Where 2 or more persons are engaged in a unitary business as described in subsection (a)(27) of Section 1501, a part of which is conducted in this State by one or more members of the group, the business income attributable to this State by any such member or members shall be apportioned by means of the combined apportionment method.

(f) Alternative allocation. If the allocation and apportionment provisions of subsections (a) through (e) and of subsection (h) do not fairly represent the extent of a person's business activity in this State, the person may petition for, or the Director may, without a petition, permit or require, in respect of all or any part of the person's business activity, if reasonable:

(1) Separate accounting;

(2) The exclusion of any one or more factors;

(3) The inclusion of one or more additional factors which will fairly represent the person's business activities in this State; or

(4) The employment of any other method to effectuate an equitable allocation and apportionment of the person's business income.

(g) Cross reference. For allocation of business income by residents, see Section 301(a).

(h) For tax years ending on or after December 31, 1998, the apportionment factor of persons who apportion their business income to this State under subsection (a) shall be equal to:

(1) for tax years ending on or after December 31, 1998 and before December 31, 1999, 16 2/3% of the property factor plus 16 2/3% of the payroll factor plus 66 2/3% of the sales factor;

(2) for tax years ending on or after December 31, 1999 and before December 31, 2000, 8 1/3% of the property factor plus 8 1/3% of the payroll factor plus 83 1/3% of the sales factor;

(3) for tax years ending on or after December 31, 2000, the sales factor.

If, in any tax year ending on or after December 31, 1998 and before December 31, 2000, the denominator of the payroll, property, or sales factor is zero, the apportionment factor computed in paragraph (1) or (2) of this subsection for that year shall be divided by an amount equal to 100% minus the percentage weight given to each factor whose denominator is equal to zero.

(i) The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to any small business as defined in the Small Business Advisory Act.

(Source: P.A. 90-562, eff. 12-16-97; 90-613, eff. 7-9-98; 91-541, eff. 8-13-99.)

(35 ILCS 5/305) (from Ch. 120, par. 3-305)

Sec. 305. Allocation of Partnership Income by partnerships and partners other than residents. (a) Allocation of partnership business income by partners other than residents. The respective shares of partners other than residents in so much of the business income of the partnership as is allocated or apportioned to this State in the possession of the partnership shall be taken into account by such partners pro rata in accordance with their respective distributive shares of such partnership income for the partnership's taxable year and allocated to this State.

(b) Allocation of partnership nonbusiness income by partners other than residents. The respective shares of partners other than residents in the items of partnership income and deduction not taken into account in computing the business income of a partnership shall be taken into account by such partners pro rata in accordance with their respective distributive shares of such partnership income for the partnership's taxable year, and allocated as if such items had been paid, incurred or accrued directly to such partners in their separate capacities.

(c) Allocation or apportionment of base income by partnership. Base income of a partnership shall be allocated or apportioned to this State pursuant to Article 3, in the same manner as it is allocated or apportioned for any other nonresident.

(c-5) Taxable income of an investment partnership, as defined in Section 1501(a)(11.5) of this Act, that is distributable to a nonresident partner shall be treated as nonbusiness income and shall be allocated to the partner’s state of residence (in the case of an individual) or commercial domicile (in the case of any other person). However, any income distributable to a nonresident partner shall be treated as business income and apportioned as if such income had been received directly by the partner if the partner has made an election under Section 1501(a)(1) of this Act to treat all income as business income or if such income is from investment activity:

(1) that is directly or integrally related to any other business activity conducted in this State by the nonresident partner (or any member of that partner's unitary business group);

(2) that serves an operational function to any other business activity of the nonresident partner (or any member of that partner's unitary business group) in this State; or

(3) where assets of the investment partnership were acquired with working capital from a trade or business activity conducted in this State in which the nonresident partner (or any member of that

partner's unitary business group) owns an interest.

(d) Cross reference. For allocation of partnership income or deductions by residents, see Section 301(a).

(e) The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to any small business as defined in the Small Business Advisory Act.

(Source: P.A. 84-550.)

(35 ILCS 5/501) (from Ch. 120, par. 5-501)

Sec. 501. Notice or Regulations Requiring Records, Statements and Special Returns.

(a) In general. Every person liable for any tax imposed by this Act shall keep such records, render such statements, make such returns and notices, and comply with such rules and regulations as the Department may from time to time prescribe. Whenever in the judgment of the Director it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns and notices, render such statements, or keep such records, as the Director deems sufficient to show whether or not such person is liable for tax under this Act.

(b) Reportable transactions.

(1) Federal transactions. For each taxable year in which a taxpayer is required to make a disclosure statement under Treasury Regulations Section 1.6011-4 (26 CFR 1.6011-4) (including any taxpayer that is a member of a consolidated group required to make such disclosure) with respect to a reportable transaction (including a listed transaction) in which the taxpayer participated in a taxable year for which a return is required under Section 502 of this Act, such taxpayer shall file a copy of such disclosure with the Department. Disclosure under this paragraph (1) is required to be made by any taxpayer that is a member of a unitary business group that includes any person required to make a disclosure statement under Treasury Regulations Section 1.6011-4. Disclosure under this paragraph (1) is required with respect to any transaction entered into after February 28, 2000 that becomes a listed transaction at any time and shall be made in the manner prescribed by the Department. With respect to listed transactions in which the taxpayer participated for taxable years ending before December 31, 2004, disclosure shall be made by the due date (including extensions) of the first return required under Section 502 of this Act due after the effective date of this Public Act of the 93rd General Assembly. With respect to transactions in which the taxpayer participated for taxable years ending on and after December 31, 2004, disclosure shall be made at the time disclosure is required under Treasury regulations (Section 1.6011-4).

(2) Illinois transactions. Any taxpayer that has participated in an "Illinois reportable transaction" is required to disclose such transaction on a return or statement at the time, and in the form and manner prescribed by the Department. Disclosure is required for each taxable year in which the taxpayer participates in an Illinois reportable transaction. If such reportable transaction results in a loss which is carried back to a prior year, such disclosure must be attached to the taxpayer's amended tax return for that prior year.

(A) Definitions.

(i) Illinois reportable transaction. The term "Illinois reportable transaction" means any transaction of a type that the Department shall by regulation determine as having a potential for avoidance or evasion of the tax imposed by this Act, including deductions, basis, credits, entity classification, dividend elimination, or ommission of income. An Illinois reportable transaction includes (but is not limited to) "Illinois listed transactions" as defined in this subparagraph (A), "confidential transactions" as defined under Treasury Regulations Section 1.6011-4(b)(3) and "transactions with contractual protection" as defined under Treasury Regulations Section 1.6011-4(b)(4).

(ii) Illinois listed transactions. The term "Illinois listed transaction" means a reportable transaction that is the same as, or substantially similar to, one of the types of reportable transactions and that has been specifically identified by the Department as a tax avoidance transaction.

(iii) Participated. For purposes of paragraph (2) of this subsection (b), the term "participated" shall be defined for each type of Illinois reportable transaction in the regulation or other published guidance identifying that type of reportable transaction or listed transaction.

(B) The Department shall identify and publish Illinois listed transactions through the use of Informational Bulletins or other published guidance.

(c) Inconsistent return position. Pursuant to regulations prescribed by the Department, any taxpayer that reports for any taxable year any item for Illinois income tax purposes in a manner inconsistent with the manner in which the same item is reported or reflected on any return filed for the same taxable year with another state with respect to a tax on or measured by net income or with the manner in which a substantially identical item was reported or reflected for Illinois income tax purposes for the immediately preceding taxable year (inconsistent return position), shall disclose such inconsistent return position on a return or statement in the form and manner prescribed by the Department. An inconsistent return

position shall include, but shall not be limited to, the following:

(1) The reporting of the same item as business income on the Illinois return and as nonbusiness income on the return filed in another state, or as nonbusiness income on the Illinois return and as business income on the return filed in another state (except that an item reported as business income in Illinois by virtue of the election provided under Section 1501(a)(1) of this Act shall not be deemed to give rise to an inconsistent return position).

(2) The reporting of the same item of gross receipts as attributable to another state on the Illinois return and as attributable to Illinois on the return filed in another state.

(3) The reporting of the same person as a member of the taxpayer's unitary business on the Illinois return and as not a member of the unitary business on the return filed in another state or the reporting of the same person as not a member of the taxpayer's unitary business on the Illinois return and as a member of the unitary business on the return filed in another state.

(d) The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to any small business as defined in the Small Business Advisory Act.

(Source: P.A. 76-261.)

(35 ILCS 5/502) (from Ch. 120, par. 5-502)

Sec. 502. Returns and notices.

(a) In general. A return with respect to the taxes imposed by this Act shall be made by every person for any taxable year:

(1) for which such person is liable for a tax imposed by this Act, or

(2) in the case of a resident or in the case of a corporation which is qualified to do business in this State, for which such person is required to make a federal income tax return, regardless of whether such person is liable for a tax imposed by this Act. However, this paragraph shall not require a resident to make a return if such person has an Illinois base income of the basic amount in Section 204(b) or less and is either claimed as a dependent on another person's tax return under the Internal Revenue Code of 1986, or is claimed as a dependent on another person's tax return under this Act.

Notwithstanding the provisions of paragraph (1), a nonresident whose Illinois income tax liability under subsections (a), (b), (c), and (d) of Section 201 of this Act is paid in full after taking into account the credits allowed under subsection (f) of this Section or allowed under Section 709.5 of this Act shall not be required to file a return under this subsection (a).

(b) Fiduciaries and receivers.

(1) Decedents. If an individual is deceased, any return or notice required of such individual under this Act shall be made by his executor, administrator, or other person charged with the property of such decedent.

(2) Individuals under a disability. If an individual is unable to make a return or notice required under this Act, the return or notice required of such individual shall be made by his duly authorized agent, guardian, fiduciary or other person charged with the care of the person or property of such individual.

(3) Estates and trusts. Returns or notices required of an estate or a trust shall be made by the fiduciary thereof.

(4) Receivers, trustees and assignees for corporations. In a case where a receiver, trustee in bankruptcy, or assignee, by order of a court of competent jurisdiction, by operation of law, or otherwise, has possession of or holds title to all or substantially all the property or business of a corporation, whether or not such property or business is being operated, such receiver, trustee, or assignee shall make the returns and notices required of such corporation in the same manner and form as corporations are required to make such returns and notices.

(c) Joint returns by husband and wife.

(1) Except as provided in paragraph (3), if a husband and wife file a joint federal income tax return for a taxable year they shall file a joint return under this Act for such taxable year and their liabilities shall be joint and several, but if the federal income tax liability of either spouse is determined on a separate federal income tax return, they shall file separate returns under this Act.

(2) If neither spouse is required to file a federal income tax return and either or both are required to file a return under this Act, they may elect to file separate or joint returns and pursuant to such election their liabilities shall be separate or joint and several.

(3) If either husband or wife is a resident and the other is a nonresident, they shall file separate returns in this State on such forms as may be required by the Department in which event their tax liabilities shall be separate; but they may elect to determine their joint net income and file a joint return as if both were residents and in such case, their liabilities shall be joint and several.

(4) Innocent spouses.

(A) However, for tax liabilities arising and paid prior to August 13, 1999, an innocent spouse shall be relieved of liability for tax (including interest and penalties) for any taxable year for which a joint return has been made, upon submission of proof that the Internal Revenue Service has made a determination under Section 6013(e) of the Internal Revenue Code, for the same taxable year, which determination relieved the spouse from liability for federal income taxes. If there is no federal income tax liability at issue for the same taxable year, the Department shall rely on the provisions of Section 6013(e) to determine whether the person requesting innocent spouse abatement of tax, penalty, and interest is entitled to that relief.

(B) For tax liabilities arising on and after August 13, 1999 or which arose prior to that date, but remain unpaid as of that date, if an individual who filed a joint return for any taxable year has made an election under this paragraph, the individual's liability for any tax shown on the joint return shall not exceed the individual's separate return amount and the individual's liability for any deficiency assessed for that taxable year shall not exceed the portion of the deficiency properly allocable to the individual. For purposes of this paragraph:

(i) An election properly made pursuant to Section 6015 of the Internal Revenue Code shall constitute an election under this paragraph, provided that the election shall not be effective until the individual has notified the Department of the election in the form and manner prescribed by the Department.

(ii) If no election has been made under Section 6015, the individual may make an election under this paragraph in the form and manner prescribed by the Department, provided that no election may be made if the Department finds that assets were transferred between individuals filing a joint return as part of a scheme by such individuals to avoid payment of Illinois income tax and the election shall not eliminate the individual's liability for any portion of a deficiency attributable to an error on the return of which the individual had actual knowledge as of the date of filing.

(iii) In determining the separate return amount or portion of any deficiency attributable to an individual, the Department shall follow the provisions in subsections (c) and (d) of Section 6015 of the Internal Revenue Code.

(iv) In determining the validity of an individual's election under subparagraph (ii) and in determining an electing individual's separate return amount or portion of any deficiency under subparagraph (iii), any determination made by the Secretary of the Treasury, by the United States Tax Court on petition for review of a determination by the Secretary of the Treasury, or on appeal from the United States Tax Court under Section 6015 of the Internal Revenue Code regarding criteria for eligibility or under subsection (d) of Section 6015 of the Internal Revenue Code regarding the allocation of any item of income, deduction, payment, or credit between an individual making the federal election and that individual's spouse shall be conclusively presumed to be correct. With respect to any item that is not the subject of a determination by the Secretary of the Treasury or the federal courts, in any proceeding involving this subsection, the individual making the election shall have the burden of proof with respect to any item except that the Department shall have the burden of proof with respect to items in subdivision (ii).

(v) Any election made by an individual under this subsection shall apply to all years for which that individual and the spouse named in the election have filed a joint return.

(vi) After receiving a notice that the federal election has been made or after receiving an election under subdivision (ii), the Department shall take no collection action against the electing individual for any liability arising from a joint return covered by the election until the Department has notified the electing individual in writing that the election is invalid or of the portion of the liability the Department has allocated to the electing individual. Within 60 days (150 days if the individual is outside the United States) after the issuance of such notification, the individual may file a written protest of the denial of the election or of the Department's determination of the liability allocated to him or her and shall be granted a hearing within the Department under the provisions of Section 908. If a protest is filed, the Department shall take no collection action against the electing individual until the decision regarding the protest has become final under subsection (d) of Section 908 or, if administrative review of the Department's decision is requested under Section 1201, until the decision of the court becomes final.

(d) Partnerships. Every partnership having any base income allocable to this State in accordance with section 305(c) shall retain information concerning all items of income, gain, loss and deduction; the

names and addresses of all of the partners, or names and addresses of members of a limited liability company, or other persons who would be entitled to share in the base income of the partnership if distributed; the amount of the distributive share of each; and such other pertinent information as the Department may by forms or regulations prescribe. The partnership shall make that information available to the Department when requested by the Department.

(e) For taxable years ending on or after December 31, 1985, and before December 31, 1993, taxpayers that are corporations (other than Subchapter S corporations) having the same taxable year and that are members of the same unitary business group may elect to be treated as one taxpayer for purposes of any original return, amended return which includes the same taxpayers of the unitary group which joined in the election to file the original return, extension, claim for refund, assessment, collection and payment and determination of the group's tax liability under this Act. This subsection (e) does not permit the election to be made for some, but not all, of the purposes enumerated above. For taxable years ending on or after December 31, 1987, corporate members (other than Subchapter S corporations) of the same unitary business group making this subsection (e) election are not required to have the same taxable year.

For taxable years ending on or after December 31, 1993, taxpayers that are corporations (other than Subchapter S corporations) and that are members of the same unitary business group shall be treated as one taxpayer for purposes of any original return, amended return which includes the same taxpayers of the unitary group which joined in filing the original return, extension, claim for refund, assessment, collection and payment and determination of the group's tax liability under this Act.

(f) The Department may promulgate regulations to permit nonresident individual partners of the same partnership, nonresident Subchapter S corporation shareholders of the same Subchapter S corporation, and nonresident individuals transacting an insurance business in Illinois under a Lloyds plan of operation, and nonresident individual members of the same limited liability company that is treated as a partnership under Section 1501 (a)(16) of this Act, to file composite individual income tax returns reflecting the composite income of such individuals allocable to Illinois and to make composite individual income tax payments. The Department may by regulation also permit such composite returns to include the income tax owed by Illinois residents attributable to their income from partnerships, Subchapter S corporations, insurance businesses organized under a Lloyds plan of operation, or limited liability companies that are treated as partnership under Section 1501(a)(16) of this Act, in which case such Illinois residents will be permitted to claim credits on their individual returns for their shares of the composite tax payments. This paragraph of subsection (f) applies to taxable years ending on or after December 31, 1987.

For taxable years ending on or after December 31, 1999, the Department may, by regulation, also permit any persons transacting an insurance business organized under a Lloyds plan of operation to file composite returns reflecting the income of such persons allocable to Illinois and the tax rates applicable to such persons under Section 201 and to make composite tax payments and shall, by regulation, also provide that the income and apportionment factors attributable to the transaction of an insurance business organized under a Lloyds plan of operation by any person joining in the filing of a composite return shall, for purposes of allocating and apportioning income under Article 3 of this Act and computing net income under Section 202 of this Act, be excluded from any other income and apportionment factors of that person or of any unitary business group, as defined in subdivision (a)(27) of Section 1501, to which that person may belong.

For taxable years ending on or after December 31, 2004, every nonresident shall be allowed a credit against his or her liability under subsections (a) and (b) of Section 201 for any amount of tax reported on a composite return and paid on his or her behalf under this subsection (f). Residents (other than persons transacting an insurance business organized under a Lloyds plan of operation) may claim a credit for taxes reported on a composite return and paid on their behalf under this subsection (f) only as permitted by the Department by rule.

(f-5) For taxable years ending on or after December 31, 2004, the Department may promulgate rules to provide that, when a partnership or Subchapter S corporation has made an error in determining the amount of any item of income, deduction, addition, subtraction, or credit required to be reported on its return that affects the liability imposed under this Act on a partner or shareholder, the partnership or Subchapter S corporation may report the changes in liabilities of its partners or shareholders and claim a refund of the resulting overpayments, or pay the resulting underpayments, on behalf of its partners and shareholders.

(g) The Department may adopt rules to authorize the electronic filing of any return required to be filed under this Section.

(h) The changes made to this Section by this amendatory Act of the 93rd General Assembly do not

apply to any small business as defined in the Small Business Advisory Act.
(Source: P.A. 91-541, eff. 8-13-99; 91-913, eff. 1-1-01; 92-846, eff. 8-23-02.)

(35 ILCS 5/709.5 new)

Sec. 709.5. Withholding by partnerships, Subchapter S corporations, and trusts.

(a) In general. For each taxable year ending on or after December 31, 2004, every partnership (other than a publicly traded partnership under Section 7704 of the Internal Revenue Code), Subchapter S corporation, and trust must withhold from each nonresident partner, shareholder, or beneficiary (other than a partner, shareholder, or beneficiary included on a composite return filed by the partnership or Subchapter S corporation for the taxable year under subsection (f) of Section 502 of this Act) an amount equal to the distributable share of the business income apportionable to Illinois of that partner, shareholder, or beneficiary under Sections 702 and 704 and Subchapter S of the Internal Revenue Code, whether or not distributed, multiplied by the applicable rates of tax for that partner or shareholder under subsections (a) through (d) of Section 201 of this Act.

(b) Credit for taxes withheld. Any amount withheld under subsection (a) of this Section and paid to the Department shall be treated as a payment of the estimated tax liability or of the liability for withholding under this Section of the partner, shareholder, or beneficiary to whom the income is distributable for the taxable year in which that person incurred a liability under this Act with respect to that income.

(c) The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to any small business as defined in the Small Business Advisory Act.

(35 ILCS 5/711) (from Ch. 120, par. 7-711)

Sec. 711. Payor's Return and Payment of Tax Withheld. (a) In general. Every payor required to deduct and withhold tax under Section 710 ~~(and until January 1, 1989, Sections 708 and 709)~~ shall be subject to the same reporting requirements regarding taxes withheld and the same monthly and quarter monthly (weekly) payment requirements as an employer subject to the provisions of Section 701. For purposes of monthly and quarter monthly (weekly) payments, the total tax withheld under Sections 701~~, 708, 709~~ and 710 shall be considered in the aggregate.

(a-5) Every partnership, Subchapter S corporation, or trust required to withhold tax under Section 709.5 shall report the amounts withheld and the partners, shareholders, or beneficiaries from whom the amounts were withheld, and pay over the amount withheld, no later than the due date (without regard to extensions) of the tax return of the partnership, Subchapter S corporation, or trust for the taxable year.

(b) Information statement. Every payor required to deduct and withhold tax under Section 710 ~~(and until January 1, 1989, Sections 708 and 709)~~ shall furnish in duplicate to each party entitled to the credit for such withholding under subsection (b) of Section 709.5 ~~(c) of Section 708, subsection (c) of Section 709~~, and subsection (b) of Section 710, respectively, on or before January 31 of the succeeding calendar year for amounts withheld under Section 710 or the due date (without regard to extensions) of the return of the partnership, Subchapter S corporation, or trust for the taxable year for amounts withheld under Section 709.5 for the taxable year, a written statement in such form as the Department may by regulation prescribe showing the amount of the payments, the amount deducted and withheld as tax, and such other information as the Department may prescribe. A copy of such statement shall be filed by the party entitled to the credit for the withholding under subsection (b) of Section 709.5 ~~(c) of Section 708, subsection (c) of Section 709,~~ or subsection (b) of Section 710 with his return for the taxable year to which it relates.

(c) The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to any small business as defined in the Small Business Advisory Act.
(Source: P.A. 85-299; 85-982.)

(35 ILCS 5/712) (from Ch. 120, par. 7-712)

Sec. 712. Payor's Liability For Withheld Taxes. Every payor who deducts and withholds or is required to deduct and withhold tax under Sections 709.5 or ~~Section~~ 710 ~~(and until January 1, 1989, Sections 708 and 709)~~ is liable for such tax. For purposes of assessment and collection, any amount withheld or required to be withheld and paid over to the Department, and any penalties and interest with respect thereto, shall be considered the tax of the payor. Any amount of tax actually deducted and withheld under Sections 709.5 or ~~Section~~ 710 ~~(and until January 1, 1989, Sections 708 and 709)~~ shall be held to be a special fund in trust for the Department. No payee shall have any right of action against his payor in respect of any money deducted and withheld and paid over to the Department in compliance or in intended compliance with Sections and 709.5 or ~~Section~~ 710 (and until January 1, 1989, Sections 708 and 709).

The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to any small business as defined in the Small Business Advisory Act.

(Source: P.A. 85-299; 85-982.)

(35 ILCS 5/713) (from Ch. 120, par. 7-713)

Sec. 713. Payor's Failure To Withhold. If a payor fails to deduct and withhold any amount of tax as required under Sections and 709.5 or ~~Section~~ 710 ~~(and until January 1, 1989, Sections 708 and 709)~~ and thereafter the tax on account of which such amount was required to be deducted and withheld is paid, such amount of tax shall not be collected from the payor, but the payor shall not be relieved from liability for penalties or interest otherwise applicable in respect of such failure to deduct and withhold. For purposes of this Section, the tax on account of which an amount is required to be deducted and withheld is the tax of the individual or individuals who are entitled to a credit under subsection (b) of Section 709.5 ~~(c) of Section 708, subsection (c) of Section 709,~~ or subsection (b) of Section 710 for the withheld tax.

The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to any small business as defined in the Small Business Advisory Act.

(Source: P.A. 85-299; 85-982.)

(35 ILCS 5/804) (from Ch. 120, par. 8-804)

Sec. 804. Failure to Pay Estimated Tax.

(a) In general. In case of any underpayment of estimated tax by a taxpayer, except as provided in subsection (d) or (e), the taxpayer shall be liable to a penalty in an amount determined at the rate prescribed by Section 3-3 of the Uniform Penalty and Interest Act upon the amount of the underpayment (determined under subsection (b)) for each required installment.

(b) Amount of underpayment. For purposes of subsection (a), the amount of the underpayment shall be the excess of:

(1) the amount of the installment which would be required to be paid under subsection (c), over

(2) the amount, if any, of the installment paid on or before the last date prescribed for payment.

(c) Amount of Required Installments.

(1) Amount.

(A) In General. Except as provided in paragraph (2), the amount of any required installment shall be 25% of the required annual payment.

(B) Required Annual Payment. For purposes of subparagraph (A), the term "required annual payment" means the lesser of

(i) 90% of the tax shown on the return for the taxable year, or if no return is filed, 90% of the tax for such year, or

(ii) 100% of the tax shown on the return of the taxpayer for the preceding taxable year if a return showing a liability for tax was filed by the taxpayer for the preceding taxable year and such preceding year was a taxable year of 12 months.

(2) Lower Required Installment where Annualized Income Installment is Less Than Amount Determined Under Paragraph (1).

(A) In General. In the case of any required installment if a taxpayer establishes that the annualized income installment is less than the amount determined under paragraph (1),

(i) the amount of such required installment shall be the annualized income installment, and

(ii) any reduction in a required installment resulting from the application of this subparagraph shall be recaptured by increasing the amount of the next required installment determined under paragraph (1) by the amount of such reduction, and by increasing subsequent required installments to the extent that the reduction has not previously been recaptured under this clause.

(B) Determination of Annualized Income Installment. In the case of any required installment, the annualized income installment is the excess, if any, of

(i) an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the net income for months in the taxable year ending before the due date for the installment, over

(ii) the aggregate amount of any prior required installments for the taxable year.

(C) Applicable Percentage.

In the case of the following required installments:	The applicable percentage is:
1st	22.5%

2nd 45%
3rd 67.5%
4th 90%

(D) Annualized Net Income; Individuals. For individuals, net income shall be placed on an annualized basis by:

(i) multiplying by 12, or in the case of a taxable year of less than 12 months, by the number of months in the taxable year, the net income computed without regard to the standard exemption for the months in the taxable year ending before the month in which the installment is required to be paid;

(ii) dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls; and

(iii) deducting from such amount the standard exemption allowable for the taxable year, such standard exemption being determined as of the last date prescribed for payment of the installment.

(E) Annualized Net Income; Corporations. For corporations, net income shall be placed on an annualized basis by multiplying by 12 the taxable income

(i) for the first 3 months of the taxable year, in the case of the installment required to be paid in the 4th month,

(ii) for the first 3 months or for the first 5 months of the taxable year, in the case of the installment required to be paid in the 6th month,

(iii) for the first 6 months or for the first 8 months of the taxable year, in the case of the installment required to be paid in the 9th month, and

(iv) for the first 9 months or for the first 11 months of the taxable year, in the case of the installment required to be paid in the 12th month of the taxable year,

then dividing the resulting amount by the number of months in the taxable year (3, 5, 6, 8, 9, or 11 as the case may be).

(d) Exceptions. Notwithstanding the provisions of the preceding subsections, the penalty imposed by subsection (a) shall not be imposed if the taxpayer was not required to file an Illinois income tax return for the preceding taxable year, or, for individuals, if the taxpayer had no tax liability for the preceding taxable year and such year was a taxable year of 12 months. The penalty imposed by subsection (a) shall also not be imposed on any underpayments of estimated tax due before the effective date of this amendatory Act of 1998 which underpayments are solely attributable to the change in apportionment from subsection (a) to subsection (h) of Section 304. The provisions of this amendatory Act of 1998 apply to tax years ending on or after December 31, 1998.

(e) The penalty imposed for underpayment of estimated tax by subsection (a) of this Section shall not be imposed to the extent that the Director ~~Department~~ or his or her designate determines, pursuant to Section 3-8 of the Uniform Penalty and Interest Act that the penalty should not be imposed.

(f) Definition of tax. For purposes of subsections (b) and (c), the term "tax" means the excess of the tax imposed under Article 2 of this Act, over the amounts credited against such tax under Sections 601(b) (3) and (4).

(g) Application of Section in case of tax withheld under Article 7 ~~on compensation~~. For purposes of applying this Section :

(1) in the case of an individual, tax withheld from compensation ~~under Article 7~~ for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amount shall be deemed paid on each installment date for such taxable year, unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts so withheld shall be deemed payments of estimated tax on the dates on which such amounts were actually withheld; ~~.~~

(2) amounts timely paid by a partnership, Subchapter S corporation, or trust on behalf of a partner, shareholder, or beneficiary pursuant to subsection (f) of Section 502 or Section 709.5 and claimed as a payment of estimated tax shall be deemed a payment of estimated tax made on the last day of the taxable year of the partnership, Subchapter S corporation, or trust for which the income from the withholding is made was computed; and

(3) all other amounts pursuant to Article 7 shall be deemed a payment of estimated tax on the date the payment is made to the taxpayer of the amount from which the tax is withheld.

(g-5) Amounts withheld under the State Salary and Annuity Withholding Act. An individual who has amounts withheld under paragraph (10) of Section 4 of the State Salary and Annuity Withholding Act may elect to have those amounts treated as payments of estimated tax made on the dates on which those amounts are actually withheld.

(i) Short taxable year. The application of this Section to taxable years of less than 12 months shall be in accordance with regulations prescribed by the Department.

The changes in this Section made by Public Act 84-127 shall apply to taxable years ending on or after January 1, 1986.

(Source: P.A. 90-448, eff. 8-16-97; 90-613, eff. 7-9-98.)

(35 ILCS 5/905) (from Ch. 120, par. 9-905)

Sec. 905. Limitations on Notices of Deficiency.

(a) In general. Except as otherwise provided in this Act:

(1) A notice of deficiency shall be issued not later than 3 years after the date the return was filed, and

(2) No deficiency shall be assessed or collected with respect to the year for which the return was filed unless such notice is issued within such period.

(b) Substantial omission of items.

(1) Omission of more than 25% of income. If the taxpayer omits from base income an amount properly includible therein which is in excess of 25% of the amount of base income stated in the return, a notice of deficiency may be issued not later than 6 years after the return was filed. For purposes of this paragraph, there shall not be taken into account any amount which is omitted in the return if such amount is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Department of the nature and the amount of such item.

(2) Reportable transactions. If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a reportable transaction or Illinois reportable transaction, as required under Section 501(b) of this Act, or fails to disclose an inconsistent return position, as required under Section 501(c) of this Act, a notice of deficiency may be issued not later than 6 years after the return is filed with respect to the taxable year in which the taxpayer participated in the reportable transaction or was required to disclose an inconsistent return position.

(c) No return or fraudulent return. If no return is filed or a false and fraudulent return is filed with intent to evade the tax imposed by this Act, a notice of deficiency may be issued at any time.

(d) Failure to report federal change. If a taxpayer fails to notify the Department in any case where notification is required by Section 304(c) or 506(b), or fails to report a change or correction which is treated in the same manner as if it were a deficiency for federal income tax purposes, a notice of deficiency may be issued (i) at any time or (ii) on or after August 13, 1999, at any time for the taxable year for which the notification is required or for any taxable year to which the taxpayer may carry an Article 2 credit, or a Section 207 loss, earned, incurred, or used in the year for which the notification is required; provided, however, that the amount of any proposed assessment set forth in the notice shall be limited to the amount of any deficiency resulting under this Act from the recomputation of the taxpayer's net income, Article 2 credits, or Section 207 loss earned, incurred, or used in the taxable year for which the notification is required after giving effect to the item or items required to be reported.

(e) Report of federal change.

(1) Before August 13, 1999, in any case where notification of an alteration is given as required by Section 506(b), a notice of deficiency may be issued at any time within 2 years after the date such notification is given, provided, however, that the amount of any proposed assessment set forth in such notice shall be limited to the amount of any deficiency resulting under this Act from recomputation of the taxpayer's net income, net loss, or Article 2 credits for the taxable year after giving effect to the item or items reflected in the reported alteration.

(2) On and after August 13, 1999, in any case where notification of an alteration is given as required by Section 506(b), a notice of deficiency may be issued at any time within 2 years after the date such notification is given for the taxable year for which the notification is given or for any taxable year to which the taxpayer may carry an Article 2 credit, or a Section 207 loss, earned, incurred, or used in the year for which the notification is given, provided, however, that the amount of any proposed assessment set forth in such notice shall be limited to the amount of any deficiency resulting under this Act from recomputation of the taxpayer's net income, Article 2 credits, or Section 207 loss earned, incurred, or used in the taxable year for which the notification is given after giving effect to the item or items reflected in the reported alteration.

(f) Extension by agreement. Where, before the expiration of the time prescribed in this Section for the issuance of a notice of deficiency, both the Department and the taxpayer shall have consented in writing to its issuance after such time, such notice may be issued at any time prior to the expiration of the period agreed upon. In the case of a taxpayer who is a partnership, Subchapter S corporation, or trust and who enters into an agreement with the Department pursuant to this subsection on or after January 1, 2003, a notice of deficiency may be issued to the partners, shareholders, or beneficiaries of the taxpayer at any

time prior to the expiration of the period agreed upon. Any proposed assessment set forth in the notice, however, shall be limited to the amount of any deficiency resulting under this Act from recomputation of items of income, deduction, credits, or other amounts of the taxpayer that are taken into account by the partner, shareholder, or beneficiary in computing its liability under this Act. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(g) Erroneous refunds. In any case in which there has been an erroneous refund of tax payable under this Act, a notice of deficiency may be issued at any time within 2 years from the making of such refund, or within 5 years from the making of such refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact, provided, however, that the amount of any proposed assessment set forth in such notice shall be limited to the amount of such erroneous refund.

Beginning July 1, 1993, in any case in which there has been a refund of tax payable under this Act attributable to a net loss carryback as provided for in Section 207, and that refund is subsequently determined to be an erroneous refund due to a reduction in the amount of the net loss which was originally carried back, a notice of deficiency for the erroneous refund amount may be issued at any time during the same time period in which a notice of deficiency can be issued on the loss year creating the carryback amount and subsequent erroneous refund. The amount of any proposed assessment set forth in the notice shall be limited to the amount of such erroneous refund.

(h) Time return deemed filed. For purposes of this Section a tax return filed before the last day prescribed by law (including any extension thereof) shall be deemed to have been filed on such last day.

(i) Request for prompt determination of liability. For purposes of subsection (a)(1), in the case of a tax return required under this Act in respect of a decedent, or by his estate during the period of administration, or by a corporation, the period referred to in such Subsection shall be 18 months after a written request for prompt determination of liability is filed with the Department (at such time and in such form and manner as the Department shall by regulations prescribe) by the executor, administrator, or other fiduciary representing the estate of such decedent, or by such corporation, but not more than 3 years after the date the return was filed. This subsection shall not apply in the case of a corporation unless:

(1) (A) such written request notifies the Department that the corporation contemplates dissolution at or before the expiration of such 18-month period, (B) the dissolution is begun in good faith before the expiration of such 18-month period, and (C) the dissolution is completed;

(2) (A) such written request notifies the Department that a dissolution has in good faith been begun, and (B) the dissolution is completed; or

(3) a dissolution has been completed at the time such written request is made.

(j) Withholding tax. In the case of returns required under Article 7 of this Act (with respect to any amounts withheld as tax or any amounts required to have been withheld as tax) a notice of deficiency shall be issued not later than 3 years after the 15th day of the 4th month following the close of the calendar year in which such withholding was required.

(k) Penalties for failure to make information reports. A notice of deficiency for the penalties provided by Subsection 1405.1(c) of this Act may not be issued more than 3 years after the due date of the reports with respect to which the penalties are asserted.

(l) Penalty for failure to file withholding returns. A notice of deficiency for penalties provided by Section 1004 of this Act for taxpayer's failure to file withholding returns may not be issued more than three years after the 15th day of the 4th month following the close of the calendar year in which the withholding giving rise to taxpayer's obligation to file those returns occurred.

(m) Transferee liability. A notice of deficiency may be issued to a transferee relative to a liability asserted under Section 1405 during time periods defined as follows:

1) Initial Transferee. In the case of the liability of an initial transferee, up to 2 years after the expiration of the period of limitation for assessment against the transferor, except that if a court proceeding for review of the assessment against the transferor has begun, then up to 2 years after the return of the certified copy of the judgment in the court proceeding.

2) Transferee of Transferee. In the case of the liability of a transferee, up to 2 years after the expiration of the period of limitation for assessment against the preceding transferee, but not more than 3 years after the expiration of the period of limitation for assessment against the initial transferor; except that if, before the expiration of the period of limitation for the assessment of the liability of the transferee, a court proceeding for the collection of the tax or liability in respect thereof has been begun against the initial transferor or the last preceding transferee, as the case may be, then the period of limitation for assessment of the liability of the transferee shall expire 2 years after the return of the certified copy of the judgment in the court proceeding.

(n) Notice of decrease in net loss. On and after the effective date of this amendatory Act of the 92nd General Assembly, no notice of deficiency shall be issued as the result of a decrease determined by the Department in the net loss incurred by a taxpayer under Section 207 of this Act unless the Department has notified the taxpayer of the proposed decrease within 3 years after the return reporting the loss was filed or within one year after an amended return reporting an increase in the loss was filed, provided that in the case of an amended return, a decrease proposed by the Department more than 3 years after the original return was filed may not exceed the increase claimed by the taxpayer on the original return.

(o) The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to any small business as defined in the Small Business Advisory Act.

(Source: P.A. 91-541, eff. 8-13-99; 92-846, eff. 8-23-02.)

(35 ILCS 5/911) (from Ch. 120, par. 9-911)

Sec. 911. Limitations on Claims for Refund.

(a) In general. Except as otherwise provided in this Act:

(1) A claim for refund shall be filed not later than 3 years after the date the return was filed (in the case of returns required under Article 7 of this Act respecting any amounts withheld as tax, not later than 3 years after the 15th day of the 4th month following the close of the calendar year in which such withholding was made), or one year after the date the tax was paid, whichever is the later; and

(2) No credit or refund shall be allowed or made with respect to the year for which the claim was filed unless such claim is filed within such period.

(b) Federal changes.

(1) In general. In any case where notification of an alteration is required by Section 506(b), a claim for refund may be filed within 2 years after the date on which such notification was due (regardless of whether such notice was given), but the amount recoverable pursuant to a claim filed under this Section shall be limited to the amount of any overpayment resulting under this Act from recomputation of the taxpayer's net income, net loss, or Article 2 credits for the taxable year after giving effect to the item or items reflected in the alteration required to be reported.

(2) Tentative carryback adjustments paid before January 1, 1974. If, as the result of the payment before January 1, 1974 of a federal tentative carryback adjustment, a notification of an alteration is required under Section 506(b), a claim for refund may be filed at any time before January 1, 1976, but the amount recoverable pursuant to a claim filed under this Section shall be limited to the amount of any overpayment resulting under this Act from recomputation of the taxpayer's base income for the taxable year after giving effect to the federal alteration resulting from the tentative carryback adjustment irrespective of any limitation imposed in paragraph (l) of this subsection.

(c) Extension by agreement. Where, before the expiration of the time prescribed in this section for the filing of a claim for refund, both the Department and the claimant shall have consented in writing to its filing after such time, such claim may be filed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. In the case of a taxpayer who is a partnership, Subchapter S corporation, or trust and who enters into an agreement with the Department pursuant to this subsection on or after January 1, 2003, a claim for refund may be issued to the partners, shareholders, or beneficiaries of the taxpayer at any time prior to the expiration of the period agreed upon. Any refund allowed pursuant to the claim, however, shall be limited to the amount of any overpayment of tax due under this Act that results from recomputation of items of income, deduction, credits, or other amounts of the taxpayer that are taken into account by the partner, shareholder, or beneficiary in computing its liability under this Act.

(d) Limit on amount of credit or refund.

(1) Limit where claim filed within 3-year period. If the claim was filed by the claimant during the 3-year period prescribed in subsection (a), the amount of the credit or refund shall not exceed the portion of the tax paid within the period, immediately preceding the filing of the claim, equal to 3 years plus the period of any extension of time for filing the return.

(2) Limit where claim not filed within 3-year period. If the claim was not filed within such 3-year period, the amount of the credit or refund shall not exceed the portion of the tax paid during the one year immediately preceding the filing of the claim.

(e) Time return deemed filed. For purposes of this section a tax return filed before the last day prescribed by law for the filing of such return (including any extensions thereof) shall be deemed to have been filed on such last day.

(f) No claim for refund based on the taxpayer's taking a credit for estimated tax payments as provided by Section 601(b)(2) or for any amount paid by a taxpayer pursuant to Section 602(a) or for any amount

of credit for tax withheld pursuant to Article 7 ~~Section 701~~ may be filed more than 3 years after the due date, as provided by Section 505, of the return which was required to be filed relative to the taxable year for which the payments were made or for which the tax was withheld. The changes in this subsection (f) made by this amendatory Act of 1987 shall apply to all taxable years ending on or after December 31, 1969.

(g) Special Period of Limitation with Respect to Net Loss Carrybacks. If the claim for refund relates to an overpayment attributable to a net loss carryback as provided by Section 207, in lieu of the 3 year period of limitation prescribed in subsection (a), the period shall be that period which ends 3 years after the time prescribed by law for filing the return (including extensions thereof) for the taxable year of the net loss which results in such carryback (or, on and after August 13, 1999, with respect to a change in the carryover of an Article 2 credit to a taxable year resulting from the carryback of a Section 207 loss incurred in a taxable year beginning on or after January 1, 2000, the period shall be that period that ends 3 years after the time prescribed by law for filing the return (including extensions of that time) for that subsequent taxable year), or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the refund may exceed the portion of the tax paid within the period provided in subsection (d) to the extent of the amount of the overpayment attributable to such carryback. On and after August 13, 1999, if the claim for refund relates to an overpayment attributable to the carryover of an Article 2 credit, or of a Section 207 loss, earned, incurred (in a taxable year beginning on or after January 1, 2000), or used in a year for which a notification of a change affecting federal taxable income must be filed under subsection (b) of Section 506, the claim may be filed within the period prescribed in paragraph (1) of subsection (b) in respect of the year for which the notification is required. In the case of such a claim, the amount of the refund may exceed the portion of the tax paid within the period provided in subsection (d) to the extent of the amount of the overpayment attributable to the recomputation of the taxpayer's Article 2 credits, or Section 207 loss, earned, incurred, or used in the taxable year for which the notification is given.

(h) Claim for refund based on net loss. On and after the effective date of this amendatory Act of the 92nd General Assembly, no claim for refund shall be allowed to the extent the refund is the result of an amount of net loss incurred under Section 207 of this Act that was not reported to the Department within 3 years of the due date (including extensions) of the return for the loss year on either the original return filed by the taxpayer or on amended return.

(i) The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to any small business as defined in the Small Business Advisory Act.

(Source: P.A. 91-541, eff. 8-13-99; 92-846, eff. 8-23-02.)

(35 ILCS 5/1001) (from Ch. 120, par. 10-1001)

Sec. 1001. Failure to File Tax Returns.

(a) In case of failure to file any tax return required under this Act on the date prescribed therefor, (determined with regard to any extensions of time for filing) there shall be added as a penalty the amount prescribed by Section 3-3 of the Uniform Penalty and Interest Act.

(b) Failure to disclose reportable transaction. Any taxpayer who fails to comply with the requirements of Section 501(b)(1) of this Act or who fails to include on a return or statement any information with respect to an Illinois reportable transaction required under Section 501(b)(2) of this Act and regulations promulgated thereunder to be included with that return or statement shall pay a penalty in the amount determined under this subsection. Such penalty shall be deemed assessed upon the date of filing of the return for the taxable year in which the taxpayer participates in the reportable transaction. A taxpayer shall not be considered to have complied with the requirements of Section 501(b)(1) of this Act unless the disclosure statement filed with the Department includes all of the information required to be disclosed with respect to a reportable transaction pursuant to Treasury Regulations Section 1.6011-4 (26 CFR 1.6011-4) and regulations promulgated by the Department under Section 501(b)(1) of this Act. A taxpayer shall not be considered to have complied with the requirements of Section 501(b)(2) of this Act unless the disclosure required under such Section includes all of the information required to be disclosed under regulations promulgated by the Department pursuant to such Section.

(1) Amount of penalty. Except as provided in paragraph (2), the amount of the penalty under this subsection shall be $15,000 for each failure to comply with the requirements of Section 501(b)(1) or Section 501(b)(2).

(2) Increase in penalty for listed transactions. In the case of a failure to comply with the requirements of Section 501(b)(1) with respect to a "listed transaction", or in the case of failure to properly disclose participation an Illinois listed transaction as defined under Section 501(b)(2) of this Act, the penalty under this subsection shall be $30,000 for each failure.

(3) Authority to Rescind Penalty. The Board of Appeals may rescind all or any portion of any penalty

imposed by this subsection with respect to any violation, if all of the following apply:

(A) The violation is with respect to a reportable transaction or Illinois reportable transaction other than a listed transaction or Illinois listed transaction;

(B) The person on whom the penalty is imposed has a history of complying with the requirements of this Act;

(C) It is shown that the violation is due to an unintentional mistake of fact;

(D) Imposing the penalty would be against equity and good conscience; and

(E) Rescinding the penalty would promote compliance with the requirements of this Act and effective tax administration.

The exercise of authority under this subparagraph (3) shall be at the sole discretion of the Board of Appeals and the Director. Notwithstanding any other law or rule of law, any determination under this subparagraph (3) may not be reviewed in any administrative or judicial proceeding.

(4) Coordination with other penalties. The penalty imposed by this subsection is in addition to any penalty imposed by this Act or the Uniform Penalty and Interest Act.

(c) Penalty for failure to disclose inconsistent return position. Any taxpayer that fails to properly disclose an inconsistent return position with respect to any taxable year, as required under Section 501(c) of this Act, shall incur a penalty of $15,000 for each position not reported. Such penalty shall be deemed assessed upon the date of filing of the return for the taxable year with respect to which the taxpayer was required to disclose the inconsistent return position. The penalty imposed by this subsection is in addition to any penalty imposed by this Act or the Uniform Penalty and Interest Act.

(d) The total penalty imposed under subsection (b) or subsection (c) of this Section with respect to any taxable year shall not exceed 10% of the increase in net income (or reduction in Illinois net loss under Section 207 of this Act) that would result had the taxpayer not participated in any reportable transaction or Illinois reportable transaction affecting its net income for such taxable year and reported each inconsistent return position in a manner that would cause it to report the greatest net income (or smallest Illinois net loss) on its Illinois income tax return for the taxable year.

(e) The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to any small business as defined in the Small Business Advisory Act.

(Source: P.A. 87-205.)

(35 ILCS 5/1002) (from Ch. 120, par. 10-1002)

Sec. 1002. Failure to Pay Tax.

(a) Negligence. If any part of a deficiency is due to negligence or intentional disregard of rules and regulations (but without intent to defraud) there shall be added to the tax as a penalty the amount prescribed by Section 3-5 of the Uniform Penalty and Interest Act.

(b) Fraud. If any part of a deficiency is due to fraud, there shall be added to the tax as a penalty the amount prescribed by Section 3-6 of the Uniform Penalty and Interest Act.

(c) Nonwillful failure to pay withholding tax. If any employer, without intent to evade or defeat any tax imposed by this Act or the payment thereof, shall fail to make a return and pay a tax withheld by him at the time required by or under the provisions of this Act, such employer shall be liable for such taxes and shall pay the same together with the interest and the penalty provided by Sections 3-2 and 3-3, respectively, of the Uniform Penalty and Interest Act and such interest and penalty shall not be charged to or collected from the employee by the employer.

(d) Willful failure to collect and pay over tax. Any person required to collect, truthfully account for, and pay over the tax imposed by this Act who willfully fails to collect such tax or truthfully account for and pay over such tax or willfully attempts in any manner to evade or defeat the tax or the payment thereof, shall, in addition to other penalties provided by law, be liable for the penalty imposed by Section 3-7 of the Uniform Penalty and Interest Act.

(e) Penalties assessable.

(1) In general. Except as otherwise provided in this Act ~~provided in paragraphs (2), (3) and (4)~~, the penalties provided by this Act shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as taxes and any reference in this Act to the tax imposed by this Act shall be deemed also to refer to penalties provided by this Act.

(2) Procedure for assessing certain penalties. For the purposes of Article 9 any penalty under Section 804(a) or Section 1001 shall be deemed assessed upon the filing of the return for the taxable year.

(3) Procedure for assessing the penalty for failure to file withholding returns or annual transmittal forms for wage and tax statements. The penalty imposed by Section 1004 will be asserted by the Department's issuance of a notice of deficiency. If taxpayer files a timely protest, the

procedures of Section 908 will be followed. If taxpayer does not file a timely protest, the notice of deficiency will constitute an assessment pursuant to subsection (c) of Section 904.

(4) Assessment of penalty under Section 1005(a). The penalty imposed under Section 1005(a) shall be deemed assessed upon the assessment of the tax to which such penalty relates and shall be collected and paid on notice and demand in the same manner as the tax.

(f) Determination of deficiency. For purposes of subsections (a) and (b), the amount shown as the tax by the taxpayer upon his return shall be taken into account in determining the amount of the deficiency only if such return was filed on or before the last day prescribed by law for the filing of such return, including any extensions of the time for such filing.

(g) The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to any small business as defined in the Small Business Advisory Act.

(Source: P.A. 89-379, eff. 1-1-96.)

(35 ILCS 5/1005) (from Ch. 120, par. 10-1005)

Sec. 1005. Penalty for Underpayment of Tax.

(a) In general. If any amount of tax required to be shown on a return prescribed by this Act is not paid on or before the date required for filing such return (determined without regard to any extension of time to file), a penalty shall be imposed in the manner and at the rate prescribed by the Uniform Penalty and Interest Act. The provisions of this subsection shall apply to all taxable years ending on or after January 1, 1986.

(b) Reportable transaction penalty. If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20% of the amount of that understatement. Such penalty shall be deemed assessed upon the assessment of the tax to which such penalty relates and shall be collected and paid on notice and demand in the same manner as the tax.

(1) Reportable Transaction Understatement. For purposes of this Section, the term "reportable transaction understatement" means the sum of subparagraphs (A) and (B):

(A) The product of (i) the amount of the increase (if any) in Illinois net income (or decrease in Illinois net loss under Section 207 of this Act) that results from a difference between the proper tax treatment of an item to which this subsection applies and the taxpayer's treatment of that item (as shown on the taxpayer's return of tax), and (ii) the applicable tax rates under Section 201 of this Act.

(B) The amount of the decrease (if any) in the aggregate amount of credits determined under this Act (including credits that may be carried forward to other taxable years) that results from a difference between the taxpayer's treatment of an item to which this subsection applies (as shown on the taxpayer's return of tax) and the proper tax treatment of that item.

(2) Items to which subsection applies. This subsection applies to any item that is attributable to any listed transaction, as defined in Treasury Regulations, Section 1.6011-4, or Illinois listed transaction, as defined in Section 501(b)(2), and to any item that is attributable to any reportable transaction, as defined in Treasury Regulations, Section 1.6011-4, or Illinois reportable transaction, as defined in Section 501(b)(2) (other than a listed transaction or Illinois listed transaction) if a significant purpose of the transaction is the avoidance or evasion of federal or Illinois income tax.

(3) Subsection (b) shall be applied by substituting "30%" for "20%" with respect to the portion of any reportable transaction understatement with respect to the relevant facts affecting the tax treatment of the item that are not adequately disclosed in accordance with Section 501(b) of this Act. A taxpayer shall be treated as making adequate disclosure if the penalty for failure to disclose is rescinded under Section 1001(b)(4) of this Act.

(4) Reasonable Cause Exception.

(A) In general. No penalty shall be imposed under this subsection with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

(B) Special rules. If the taxpayer has been contacted by the Department regarding the use of a potentially abusive tax shelter, subparagraph (A) does not apply unless all of the following requirements are met:

(i) There is or was substantial authority for such treatment; and

(ii) The taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

(C) Rules relating to reasonable belief. For purposes of subparagraph (B), a taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief meets the requirements of this subparagraph (C):

(i) Such belief must be based on the facts and law that exist at the time the return of tax that includes that tax treatment is filed;

(ii) Such belief must relate solely to the taxpayer's chances of success on the merits of that treatment and does not take into account the possibility that the return will not be audited, that the treatment will not be raised on audit, or that the treatment will be resolved through settlement if it is raised; and

(iii) Such belief is not based, in whole or in part, on the opinion of a disqualified tax advisor or on a disqualified opinion.

(5) Definitions.

(i) Disqualified tax advisor. The term "disqualified tax advisor" is a tax advisor that meets any of the following conditions:

(I) Is a material advisor who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of Sections 267(b) or 707(b)(1) of the Internal Revenue Code) to any person who so participates;

(II) Is compensated directly or indirectly by a material advisor with respect to the transaction;

(III) Has a fee arrangement with respect to the transaction that is contingent on all or part of the intended tax benefits from the transaction being sustained; or

(IV) As determined under regulations prescribed by either the Secretary of the Treasury for federal income tax purposes or the Department, has a continuing financial interest with respect to the transaction.

(ii) Disqualified opinion. The term "disqualified opinion" means an opinion that meets any of the following conditions:

(I) Is based on unreasonable factual or legal assumptions (including assumptions as to future events);

(II) Unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person;

(III) Does not identify and consider all relevant facts; or

(IV) Fails to meet any other requirement as either the Secretary of the Treasury for federal income tax purposes or the Department may prescribe.

(iii) Material Advisor. The term "material advisor" shall have substantially the same meaning as the same term is defined under Treasury Regulations Section 301.6112-1, (26 CFR 301.6112-1) and shall include any person that is a material advisor for federal income tax purposes under such regulation.

(6) Amended returns. Except as provided in Treasury Regulations, in no event may any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement if the amendment or supplement is filed after the date the taxpayer is first contacted by either the Internal Revenue Service for federal income tax purposes or by the Department regarding the examination of the return or such other date as specified by the Department by regulation.

(7) Effective date. This subsection shall apply to taxable years ending on and after December 31, 2004, except that a reportable transaction understatement shall include an understatement (as determined under paragraph (1)) with respect to any taxable year for which the limitations period on assessment has not expired that is attributable to a transaction in which the taxpayer has invested after February 28, 2000 that becomes a listed transaction (as defined in Treasury Regulations Section 1.6011-4(b)(2)) or Illinois listed transaction (as defined in Section 501(b)(2)(A)(2)) at any time.

(c) 100% Interest Penalty. If a taxpayer has been contacted by the Internal Revenue Service or the Department regarding the use of a potentially abusive tax shelter with respect to any taxable year for which the limitations period on assessment has not expired, and has a deficiency attributable to a potentially abusive tax shelter with respect to such taxable year or years, there shall be added to the tax an amount equal to 100% of the interest assessed under the Uniform Penalty and Interest Act for the period beginning on the last date prescribed by law for the payment of such tax and ending on the date of the notice of deficiency. Such penalty shall be deemed assessed upon the assessment of the interest to which such penalty relates and shall be collected and paid in the same manner as such interest. The penalty imposed by this subsection is in addition to any penalty imposed by this Act or the Uniform Penalty and Interest Act. For purposes of this subsection and subsection (d) of this Section, the term "potentially abusive tax shelter" means (i) any tax shelter (as defined in Section 6111 of the Internal Revenue Code) with respect to which registration is required under Section 6111 of the Internal Revenue Code and (ii) any entity, investment plan, arrangement, or other plan or arrangement that is of a type that the Internal Revenue Service or the Department determines by rule has a potential for tax avoidance or evasion (including, but not limited to, listed transactions and Illinois listed transactions).

(d) 150% Interest Rate. For taxable years ending on and after July 1, 2002, for any notice of deficiency issued before the taxpayer is contacted by the Internal Revenue Service or the Department

regarding a potentially abusive tax shelter, the taxpayer is subject to interest as provided under Section 3-2 of the Uniform Penalty and Interest Act, but with respect to any deficiency attributable to a potentially abusive tax shelter, the taxpayer is subject to interest at a rate of 150% of the otherwise applicable rate.

(e) Coordination with other penalties. Except as provided in regulations, the penalties imposed by this Section are in addition to any other penalty imposed by this Act or the Uniform Penalty and Interest Act.

(f) The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to any small business as defined in the Small Business Advisory Act.

~~The provisions of this Section shall apply to all taxable years ending on or after January 1, 1986.~~

(Source: P.A. 87-205.)

(35 ILCS 5/1007 new)

Sec. 1007. Failure to register tax shelter or maintain list.

(a) Penalty Imposed. Any person that fails to comply with the requirements of Section 1405.5 or Section 1405.6 of this Act shall incur a penalty as provided in this Section. A person is not in compliance with the requirements of Section 1405.5 unless and until the required registration has been filed and contains all of the information required to be included with such registration under Section 6111 of the Internal Revenue Code or such Section 1405.5. A person is not in compliance with the requirements of Section 1405.6 unless, at the time the required list is made available to the Department, such list contains all of the information required to be maintained under Section 6112 of the Internal Revenue Code or such Section 1405.6.

(b) Amount of Penalty. The following penalties apply:

(1) In the case of each failure to comply with the requirements of subsection (a), subsection (b), or subsection (e) of Section 1405.5, the penalty shall be $15,000.

(2) If the failure is with respect to a listed transaction or Illinois listed transaction under subsection (c) of Section 1405.5, the penalty shall be $100,000.

(3) In the case of each failure to comply with the requirements of subsection (a) or subsection (b) of Section 1405.6, the penalty shall be $15,000.

(4) If the failure is with respect to a listed transaction or Illinois listed transaction under subsection (c) of Section 1405.6, the penalty shall be $100,000.

(c) Authority to rescind penalty. The Board of Appeals may rescind all or any portion of any penalty imposed by this Section with respect to any violation, if all of the following apply:

(1) The violation is not with respect to a listed transaction or Illinois listed transaction;

(2) The person on whom the penalty is imposed has a history of complying with the requirements of this Act;

(3) It is shown that the violation is due to an unintentional mistake of fact;

(4) Imposing the penalty would be against equity and good conscience; and

(5) Rescinding the penalty would promote compliance with the requirements of this Act and effective tax administration. The exercise of authority under this subsection shall be at the sole discretion of the Director. Notwithstanding any other law or rule of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

(d) Coordination with other penalties. The penalty imposed by this Section is in addition to any penalty imposed by this Act or the Uniform Penalty and Interest Act.

(e) The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to any small business as defined in the Small Business Advisory Act.

(35 ILCS 5/1008 new)

Sec. 1008. Promoting abusive tax shelters. Except as herein provided, the provisions of Section 6700 of the Internal Revenue Code shall apply for purposes of this Act as if such section applied to an Illinois deduction, credit, exclusion from income, allocation or apportionment rule, or other Illinois tax benefit. Notwithstanding Section 6700(a) of the Internal Revenue Code, if an activity with respect to which a penalty imposed under Section 6700(a) of the Internal Revenue Code, as applied for purposes of this Act, involves a statement described in Section 6700(a)(2)(A) of the Internal Revenue Code, as applied for purposes of this Act, the amount of the penalty imposed under this Section shall be the greater of $10,000 or 50% of the gross income received (or to be received) from any person to whom such statement is furnished that is required to file a return under Section 502 of this Act.

The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to any small business as defined in the Small Business Advisory Act.

(35 ILCS 5/1405.5 new)

Sec. 1405.5.Registration of tax shelters.

(a) Federal tax shelter. Any tax shelter organizer required to register a tax shelter under Section 6111

of the Internal Revenue Code after the effective date of this amendatory Act of the 93rd General Assembly shall send a duplicate of the federal registration information (and any additional information required by the Department) to the Department not later than the day on which registration is required under federal law. Any person required to register under Section 6111 of the Internal Revenue Code who receives a tax registration number from the Secretary of the Treasury shall, within 30 days after request by the Department, file a statement of that registration number.

(b) Illinois tax shelter. Registration with the Department shall be required with respect to (i) any investment that would be considered a "tax shelter" under Section 6111 of the Internal Revenue Code if the definition of "tax shelter ratio" in subsection (c) of such section included the provisions of this Act for deductions, credits, apportionment and allocation, or that would be considered a tax shelter under subsection (d) of such Section but for the fact that a significant purpose is the avoidance or evasion of the tax imposed by this Act rather than avoidance or evasion of federal income tax and (ii) any listed transaction or Illinois listed transaction as defined under Section 501(b) of this Act. The tax shelter organizer shall make the registration required under this subsection with respect to tax shelters in which interests are first offered for sale after the effective date of this amendatory Act of the 93rd General Assembly in the form and manner prescribed by the Department, which shall include the same information required for federal tax shelters and any other information required by the Department, and shall be made not later than the day on which the first offering for sale of interests in the shelter occurs or, if the tax shelter organizer reasonably believes as of the day of such first offering that the tax shelter will not satisfy the conditions of subsection (d) of this Section, within 60 days after the tax shelter meets any of the conditions of subsection (d) of this Section.

(c) Additional requirements for listed transactions and Illinois listed transactions.

(1) In addition to the requirements of this Section, for any transactions entered into on or after February 28, 2000 that become listed transactions (as defined under Treasury Regulations Section 1.6011-4) at any time, those transactions shall be registered with the Department (in the form and manner prescribed by the Department) by the later of (i) 60 days after entering into the transaction, (ii) 60 days after the transaction becomes a listed transaction, or (iii) December 31, 2004;

(2) In addition to the requirements of this Section, for any transactions entered into on or after January 1, 2004 that become Illinois listed transactions (as defined under Section 501(b) of this Act) at any time, those transactions shall be registered with the Department by the later of (i) 60 days after entering into the transaction, (ii) 60 days after the transaction becomes an Illinois listed transaction, or (iii) December 31, 2004.

(d) Tax Shelters subject to this Section. The provisions of this section apply to any tax shelter herein described that additionally satisfies any of the following conditions: (1) organized in this State; (2) doing business in this State; (3) deriving income from sources in this State; or (4) at least one of its investors is an Illinois taxpayer.

(e) Tax Shelter Identification Number.

(1) Any person who sells (or otherwise transfers) an interest in an Illinois tax shelter shall (at such times and in such manner as required by the Department) furnish to each investor who purchases (or otherwise acquires) an interest in such shelter from such person the identification number assigned by the Department to such tax shelter.

(2) Any person required to file a return under this Act and required to include on the person's federal tax return a tax shelter identification number pursuant to Section 6111 of the Internal Revenue Code, shall furnish such number upon filing of the person's Illinois return.

(3) Any person claiming any deduction, credit, or other tax benefit by reason of an Illinois tax shelter shall include (in such manner as the Department may prescribe) on the return of tax on which such deduction, credit, or other benefit is claimed the identification number assigned by the Department to such tax shelter.

(f) The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to any small business as defined in the Small Business Advisory Act.

(35 ILCS 5/1405.6 new)

Sec. 1405.6. Investor lists.

(a) Federal abusive tax shelter. Any person required to maintain a list under Section 6112 of the Internal Revenue Code and Treasury Regulations Section 301.6112-1 with respect to a potentially abusive tax shelter shall furnish such list to the Department not later than the time such list is required to be furnished to the Internal Revenue Service under federal income tax law.

(b) Illinois abusive tax shelter. Each organizer and seller of an Illinois potentially abusive tax shelter shall maintain a list identifying each person who was sold an interest in such shelter. Any person required to maintain a list under this subsection shall make such list available to the Department upon

request by the Department, and except as otherwise provided under regulations prescribed by the Department, shall retain any information required to be included on such list for 7 years.

(1) Definitions.

(A) Illinois potentially abusive tax shelter. The term "Illinois potentially abusive tax shelter" means (i) any Illinois tax shelter (as defined in Section 1405.5) required to be registered under Section 1405.5 and (ii) any entity, investment, plan or arrangement, or other plan or arrangement that is of a type that the Department determines by regulation as having a potential for avoidance or evasion of the tax imposed by this Act (including an Illinois listed transaction as defined under Section 501(b)). The term shall have substantially the same meaning as a "potentially abusive tax shelter" described in Treasury Regulations Section 301.6112-1(b).

(B) Organizer or seller. An organizer or seller of an Illinois potentially abusive tax shelter includes any person that is a material adviser under Treasury Regulations Section 301.6112-1 with respect to the transaction that is an Illinois potentially abusive tax shelter or would be considered a material adviser under Treasury Regulations Section 301.6112-1 with respect to the transaction if such transaction constituted a potentially abusive tax shelter under Treasury Regulations Section 301.6112-1.

(2) The list required under this Section shall include the same information required with respect to a potentially abusive tax shelter under Treasury Regulations Section 301.6112-1 and any other information as the Department may require. Unless otherwise prescribed by the Department, the list required under this Section shall be maintained in the same form and manner as required with respect to a potentially abusive tax shelter under Treasury Regulations Section 301.6112-1.

(c) Additional requirements for listed transactions and Illinois listed transactions.

(1) For transactions entered into on or after February 28, 2000, that become listed transactions (as defined under Treasury Regulations Section 1.6011-4) at any time, the list shall be furnished to the Department by the later of (i) 60 days after entering into the transaction, (ii) 60 days after the transaction becomes a listed transaction, or (iii) December 31, 2004.

(2) For transactions entered into on or after January 1, 2004 that become Illinois listed transactions (as defined under Section 501(b) of this Act) at any time, the list shall be furnished to the Department by the later of (i) 60 days after entering into the transaction, (ii) 60 days after the transaction becomes an Illinois listed transaction, or (iii) December 31, 2004.

(d) Tax Shelters subject to this Section. The provisions of this section apply to any tax shelter herein described that additionally satisfies any of the following conditions:

(1) Organized in this State;

(2) Doing business in this State;

(3) Deriving income from sources in this State; or

(4) At least one of its investors is an Illinois taxpayer.

(e) The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to any small business as defined in the Small Business Advisory Act.

(35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

Sec. 1501. Definitions.

(a) In general. When used in this Act, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof:

(1) Business income. The term "business income" means all income that may be treated as apportionable business income under the Constitution of the United States. Business income is net of the deductions allocable thereto ~~income arising from transactions and activity in the regular course of the taxpayer's trade or business, net of the deductions allocable thereto, and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations~~. Such term does not include compensation or the deductions allocable thereto. For each taxable year beginning on or after January 1, 2003, a taxpayer may elect to treat all income other than compensation as business income. This election shall be made in accordance with rules adopted by the Department and, once made, shall be irrevocable.

(2) Commercial domicile. The term "commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(3) Compensation. The term "compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(4) Corporation. The term "corporation" includes associations, joint-stock companies, insurance companies and cooperatives. Any entity, including a limited liability company formed under the Illinois Limited Liability Company Act, shall be treated as a corporation if it is so classified for federal income tax purposes.

(5) Department. The term "Department" means the Department of Revenue of this State.

(6) Director. The term "Director" means the Director of Revenue of this State.

(7) Fiduciary. The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, or any person acting in any fiduciary capacity for any person.

(8) Financial organization.

(A) The term "financial organization" means any bank, bank holding company, trust company, savings bank, industrial bank, land bank, ~~safe deposit company,~~ private banker, savings and loan association, building and loan association, credit union, ~~currency exchange,~~ cooperative bank, ~~small loan company, sales finance company,~~ investment company, or any person which is owned by a bank or bank holding company. For the purpose of this Section a "person" will include only those persons which a bank holding company may acquire and hold an interest in, directly or indirectly, under the provisions of the Bank Holding Company Act of 1956 (12 U.S.C. 1841, et seq.), except where interests in any person must be disposed of within certain required time limits under the Bank Holding Company Act of 1956.

(B) For purposes of subparagraph (A) of this paragraph, the term "bank" includes (i) any entity that is regulated by the Comptroller of the Currency under the National Bank Act, or by the Federal Reserve Board, or by the Federal Deposit Insurance Corporation and (ii) any federally or State chartered bank operating as a credit card bank.

(C) For purposes of subparagraph (A) of this paragraph, the term "sales finance company" has the meaning provided in the following item (i) or (ii):

(i) A person primarily engaged in one or more of the following businesses: the business of purchasing customer receivables, the business of making loans upon the security of customer receivables, the business of making loans for the express purpose of funding purchases of tangible personal property or services by the borrower, or the business of finance leasing. For purposes of this item (i), "customer receivable" means:

(a) a retail installment contract or retail charge agreement within the meaning of the Sales Finance Agency Act, the Retail Installment Sales Act, or the Motor Vehicle Retail Installment Sales Act;

(b) an installment, charge, credit, or similar contract or agreement arising from the sale of tangible personal property or services in a transaction involving a deferred payment price payable in one or more installments subsequent to the sale; or

(c) the outstanding balance of a contract or agreement described in provisions (a) or (b) of this item (i).

A customer receivable need not provide for payment of interest on deferred payments. A sales finance company may purchase a customer receivable from, or make a loan secured by a customer receivable to, the seller in the original transaction or to a person who purchased the customer receivable directly or indirectly from that seller.

(ii) A corporation meeting each of the following criteria:

(a) the corporation must be a member of an "affiliated group" within the meaning of Section 1504(a) of the Internal Revenue Code, determined without regard to Section 1504(b) of the Internal Revenue Code;

(b) more than 50% of the gross income of the corporation for the taxable year must be interest income derived from qualifying loans. A "qualifying loan" is a loan made to a member of the corporation's affiliated group that originates customer receivables (within the meaning of item (i)) or to whom customer receivables originated by a member of the affiliated group have been transferred, to the extent the average outstanding balance of loans from that corporation to members of its affiliated group during the taxable year do not exceed the limitation amount for that corporation. The "limitation amount" for a corporation is the average outstanding balances during the taxable year of customer receivables (within the meaning of item (i)) originated by all members of the affiliated group. If the average outstanding balances of the loans made by a corporation to members of its affiliated group exceed the limitation amount, the interest income of that corporation from qualifying loans shall be equal to its interest income from loans to members of its affiliated groups times a fraction equal to the limitation amount divided by the average outstanding balances of the loans made by that corporation to members of its affiliated group;

(c) the total of all shareholder's equity (including, without limitation, paid-in capital on common and preferred stock and retained earnings) of the corporation plus the total of all of its loans, advances, and other obligations payable or owed to members of its affiliated group may not exceed 20% of the total assets of the corporation at any time during

the tax year; and

(d) more than 50% of all interest-bearing obligations of the affiliated group payable to persons outside the group determined in accordance with generally accepted accounting principles must be obligations of the corporation.

This amendatory Act of the 91st General Assembly is declaratory of existing law.

(D) Subparagraphs (B) and (C) of this paragraph are declaratory of existing law and apply retroactively, for all tax years beginning on or before December 31, 1996, to all original returns, to all amended returns filed no later than 30 days after the effective date of this amendatory Act of 1996, and to all notices issued on or before the effective date of this amendatory Act of 1996 under subsection (a) of Section 903, subsection (a) of Section 904, subsection (e) of Section 909, or Section 912. A taxpayer that is a "financial organization" that engages in any transaction with an affiliate shall be a "financial organization" for all purposes of this Act.

(E) For all tax years beginning on or before December 31, 1996, a taxpayer that falls within the definition of a "financial organization" under subparagraphs (B) or (C) of this paragraph, but who does not fall within the definition of a "financial organization" under the Proposed Regulations issued by the Department of Revenue on July 19, 1996, may irrevocably elect to apply the Proposed Regulations for all of those years as though the Proposed Regulations had been lawfully promulgated, adopted, and in effect for all of those years. For purposes of applying subparagraphs (B) or (C) of this paragraph to all of those years, the election allowed by this subparagraph applies only to the taxpayer making the election and to those members of the taxpayer's unitary business group who are ordinarily required to apportion business income under the same subsection of Section 304 of this Act as the taxpayer making the election. No election allowed by this subparagraph shall be made under a claim filed under subsection (d) of Section 909 more than 30 days after the effective date of this amendatory Act of 1996.

(F) Finance Leases. For purposes of this subsection, a finance lease shall be treated as a loan or other extension of credit, rather than as a lease, regardless of how the transaction is characterized for any other purpose, including the purposes of any regulatory agency to which the lessor is subject. A finance lease is any transaction in the form of a lease in which the lessee is treated as the owner of the leased asset entitled to any deduction for depreciation allowed under Section 167 of the Internal Revenue Code.

(9) Fiscal year. The term "fiscal year" means an accounting period of 12 months ending on the last day of any month other than December.

(10) Includes and including. The terms "includes" and "including" when used in a definition contained in this Act shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(11) Internal Revenue Code. The term "Internal Revenue Code" means the United States Internal Revenue Code of 1954 or any successor law or laws relating to federal income taxes in effect for the taxable year.

(11.5) Investment partnership.

(A) The term "investment partnership" means any entity that is treated as a partnership for federal income tax purposes that meets the following requirements:

(i) no less than 90% of the partnership's cost of its total assets consists of qualifying investment securities, deposits at banks or other financial institutions, and office space and equipment reasonably necessary to carry on its activities as an investment partnership;

(ii) no less than 90% of its gross income consists of interest, dividends, and gains from the sale or exchange of qualifying investment securities; and

(iii) the partnership is not a dealer in qualifying investment securities.

(B) For purposes of this paragraph (11.5), the term “qualifying investment securities” includes all of the following:

(i) common stock, including preferred or debt securities convertible into common stock, and preferred stock;

(ii) bonds, debentures, and other debt securities;

(iii) foreign and domestic currency deposits secured by federal, state, or local governmental agencies;

(iv) mortgage or asset-backed securities secured by federal, state, or local governmental agencies;

(v) repurchase agreements and loan participations;

(vi) foreign currency exchange contracts and forward and futures contracts on foreign currencies;

(vii) stock and bond index securities and futures contracts and other similar financial securities and futures contracts on those securities;

(viii) options for the purchase or sale of any of the securities, currencies, contracts, or financial instruments described in items (i) to (vii), inclusive;

(ix) regulated futures contracts;

(x) commodities (not described in Section 1221(a)(1) of the Internal Revenue Code) or futures, forwards, and options with respect to such commodities, provided, however, that any item of a physical commodity to which title is actually acquired in the partnership's capacity as a dealer in such commodity shall not be a qualifying investment security;

(xi) derivatives; and

(xii) a partnership interest in another partnership that is an investment partnership.

(12) Mathematical error. The term "mathematical error" includes the following types of errors, omissions, or defects in a return filed by a taxpayer which prevents acceptance of the return as filed for processing:

(A) arithmetic errors or incorrect computations on the return or supporting schedules;

(B) entries on the wrong lines;

(C) omission of required supporting forms or schedules or the omission of the information in whole or in part called for thereon; and

(D) an attempt to claim, exclude, deduct, or improperly report, in a manner directly contrary to the provisions of the Act and regulations thereunder any item of income, exemption, deduction, or credit.

(13) Nonbusiness income. The term "nonbusiness income" means all income other than business income or compensation.

(14) Nonresident. The term "nonresident" means a person who is not a resident.

(15) Paid, incurred and accrued. The terms "paid", "incurred" and "accrued" shall be construed according to the method of accounting upon the basis of which the person's base income is computed under this Act.

(16) Partnership and partner. The term "partnership" includes a syndicate, group, pool, joint venture or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this Act, a trust or estate or a corporation; and the term "partner" includes a member in such syndicate, group, pool, joint venture or organization.

The term "partnership" includes any entity, including a limited liability company formed under the Illinois Limited Liability Company Act, classified as a partnership for federal income tax purposes.

The term "partnership" does not include a syndicate, group, pool, joint venture, or other unincorporated organization established for the sole purpose of playing the Illinois State Lottery.

(17) Part-year resident. The term "part-year resident" means an individual who became a resident during the taxable year or ceased to be a resident during the taxable year. Under Section 1501(a)(20)(A)(i) residence commences with presence in this State for other than a temporary or transitory purpose and ceases with absence from this State for other than a temporary or transitory purpose. Under Section 1501(a)(20)(A)(ii) residence commences with the establishment of domicile in this State and ceases with the establishment of domicile in another State.

(18) Person. The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, association, firm, company, corporation, limited liability company, or fiduciary. For purposes of Section 1301 and 1302 of this Act, a "person" means (i) an individual, (ii) a corporation, (iii) an officer, agent, or employee of a corporation, (iv) a member, agent or employee of a partnership, or (v) a member, manager, employee, officer, director, or agent of a limited liability company who in such capacity commits an offense specified in Section 1301 and 1302.

(18A) Records. The term "records" includes all data maintained by the taxpayer, whether on paper, microfilm, microfiche, or any type of machine-sensible data compilation.

(19) Regulations. The term "regulations" includes rules promulgated and forms prescribed by the Department.

(20) Resident. The term "resident" means:

(A) an individual (i) who is in this State for other than a temporary or transitory purpose during the taxable year; or (ii) who is domiciled in this State but is absent from the State for a temporary or transitory purpose during the taxable year;

(B) The estate of a decedent who at his or her death was domiciled in this State;

(C) A trust created by a will of a decedent who at his death was domiciled in this State; and

(D) An irrevocable trust, the grantor of which was domiciled in this State at the time such trust became irrevocable. For purpose of this subparagraph, a trust shall be considered irrevocable to the extent that the grantor is not treated as the owner thereof under Sections 671 through 678 of the Internal Revenue Code.

(21) Sales. The term "sales" means all gross receipts of the taxpayer not allocated under Sections 301, 302 and 303.

(22) State. The term "state" when applied to a jurisdiction other than this State means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any Territory or Possession of the United States, and any foreign country, or any political subdivision of any of the foregoing. For purposes of the foreign tax credit under Section 601, the term "state" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any political subdivision of any of the foregoing, effective for tax years ending on or after December 31, 1989.

(23) Taxable year. The term "taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the base income is computed under this Act. "Taxable year" means, in the case of a return made for a fractional part of a year under the provisions of this Act, the period for which such return is made.

(24) Taxpayer. The term "taxpayer" means any person subject to the tax imposed by this Act.

(25) International banking facility. The term international banking facility shall have the same meaning as is set forth in the Illinois Banking Act or as is set forth in the laws of the United States or regulations of the Board of Governors of the Federal Reserve System.

(26) Income Tax Return Preparer.

(A) The term "income tax return preparer" means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by this Act or any claim for refund of tax imposed by this Act. The preparation of a substantial portion of a return or claim for refund shall be treated as the preparation of that return or claim for refund.

(B) A person is not an income tax return preparer if all he or she does is

(i) furnish typing, reproducing, or other mechanical assistance;

(ii) prepare returns or claims for refunds for the employer by whom he or she is regularly and continuously employed;

(iii) prepare as a fiduciary returns or claims for refunds for any person; or

(iv) prepare claims for refunds for a taxpayer in response to any notice of deficiency issued to that taxpayer or in response to any waiver of restriction after the commencement of an audit of that taxpayer or of another taxpayer if a determination in the audit of the other taxpayer directly or indirectly affects the tax liability of the taxpayer whose claims he or she is preparing.

(27) Unitary business group. The term "unitary business group" means a group of persons related through common ownership whose business activities are integrated with, dependent upon and contribute to each other. The group will not include those members who, in taxable years on or after December 31, 2004, are foreign persons and whose business activity outside the United States is 80% or more of any such member's total business activity; for purposes of this paragraph and clause (a)(3)(B)(ii) of Section 304, business activity within the United States shall be measured by means of the factors ordinarily applicable under subsections (a), (b), (c), (d), or (h) of Section 304 except that, in the case of members ordinarily required to apportion business income by means of the 3 factor formula of property, payroll and sales specified in subsection (a) of Section 304, including the formula as weighted in subsection (h) of Section 304, such members shall not use the sales factor in the computation and the results of the property and payroll factor computations of subsection (a) of Section 304 shall be divided by 2 (by one if either the property or payroll factor has a denominator of zero). The computation required by the preceding sentence shall, in each case, involve the division of the member's property, payroll, or revenue miles in the United States, insurance premiums on property or risk in the United States, or financial organization business income from sources within the United States, as the case may be, by the respective worldwide figures for such items. Common ownership in the case of corporations is the direct or indirect control or ownership of more than 50% of the outstanding voting stock of the persons carrying on unitary business activity. Unitary business activity can ordinarily be illustrated where the activities of the members are: (1) in the same general line (such

as manufacturing, wholesaling, retailing of tangible personal property, insurance, transportation or finance); or (2) are steps in a vertically structured enterprise or process (such as the steps involved in the production of natural resources, which might include exploration, mining, refining, and marketing); and, in either instance, the members are functionally integrated through the exercise of strong centralized management (where, for example, authority over such matters as purchasing, financing, tax compliance, product line, personnel, marketing and capital investment is not left to each member). For taxable years ending before December 31, 2004, a ~~In no event, however, will any~~ unitary business group shall not include members which are ordinarily required to apportion business income under different subsections of Section 304, except that for tax years ending on or after December 31, 1987 and before December 31, 2004, this prohibition shall not apply to a unitary business group composed of one or more taxpayers all of which apportion business income pursuant to subsection (b) of Section 304, or all of which apportion business income pursuant to subsection (d) of Section 304, and a holding company of such single-factor taxpayers (see definition of "financial organization" for rule regarding holding companies of financial organizations). If a unitary business group would, but for the preceding sentence, include members that are ordinarily required to apportion business income under different subsections of Section 304, then for each subsection of Section 304 for which there are two or more members, there shall be a separate unitary business group composed of such members. For purposes of the preceding two sentences, a member is "ordinarily required to apportion business income" under a particular subsection of Section 304 if it would be required to use the apportionment method prescribed by such subsection except for the fact that it derives business income solely from Illinois. Pursuant to rules adopted by the Department, the members of a unitary business group (as defined in this Section) may jointly elect to include in the group for any taxable year ending on or after December 31, 2004, a passive income affiliate, as defined in paragraph (29) of this subsection. Where the election is made to include a passive income affiliate in the unitary business group, for purposes of computing the affiliate's base income under Section 203 of this Act, the affiliate's federal taxable income shall be deemed to consist solely of its passive income, as defined in subparagraph (B) of paragraph (29) of this subsection, net of related expenses. As used in this paragraph, for taxable years ending on or after December 31, 2004, the phrase "United States" means the 50 states, the District of Columbia, any territory or possession of the United States, and any area over which the United States has asserted jurisdiction or claimed exclusive rights with respect to the exploration for or exploitation of natural resources. This definition includes, but is not limited to, Puerto Rico and the outer continental shelf and any artificial islands and structures therein.

If the unitary business group members' accounting periods differ, the common parent's accounting period or, if there is no common parent, the accounting period of the member that is expected to have, on a recurring basis, the greatest Illinois income tax liability must be used to determine whether to use the apportionment method provided in subsection (a) or subsection (h) of Section 304. The prohibition against membership in a unitary business group for taxpayers ordinarily required to apportion income under different subsections of Section 304 does not apply to taxpayers required to apportion income under subsection (a) and subsection (h) of Section 304. The provisions of this amendatory Act of 1998 apply to tax years ending on or after December 31, 1998.

(28) Subchapter S corporation. The term "Subchapter S corporation" means a corporation for which there is in effect an election under Section 1362 of the Internal Revenue Code, or for which there is a federal election to opt out of the provisions of the Subchapter S Revision Act of 1982 and have applied instead the prior federal Subchapter S rules as in effect on July 1, 1982.

(29) Passive income affiliate.

(A) In general. The term "passive income affiliate" means any person if (i) the person would be a member of a unitary business group under paragraph (27) of this subsection except for the fact that the person is a foreign person and 80% or more of the person's business activity is outside the United States (as determined under paragraph (27)) and (ii) at least 50% of the person's total gross income (as defined in this Section) for the taxable year consists of "passive income" as set forth in subparagraph (B) of this paragraph.

(B) Passive income. For purpose of subparagraph (A), "passive income" includes the following items (whether or not business income):

(i) dividends, interest, annuities, and royalties (except that "royalties" does not include "active business computer software royalties", as defined in Section 543(d) of the Internal Revenue Code);

(ii) gains from the sale or exchange of stock or securities;

(iii) gains from futures transactions in any commodity on or subject to the rules of a board of trade or commodity exchange (except that, pursuant to rules adopted by the Department, gains by a producer, processor, merchant, or handler of the commodity that arise out of bona fide hedging

transactions reasonably necessary to the conduct of its business in the manner in which the business is customarily and usually conducted by others shall not be included);

(iv) amounts included in income under part I of subchapter J of the Internal Revenue Code and gains from the sale of other disposition of any interest in an estate or trust;

(v) amounts received as compensation (however designated and from whomever received) for the use of, or the right to use, property of the person in any case where the party entitled to the use of the property (whether the right is obtained directly from the person or by means of a sublease or other arrangement) would be a member of the person's unitary business group under paragraph (27) of this subsection but for the fact that the person's business activity outside the United States is 80% or more of total business activity as determined under paragraph (27);

(vi) rents, unless constituting 50% or more of the gross income. The term "rents" as used in this subparagraph means compensation, however designated, for the use of, or right to use, property but does not include amounts described in subparagraph (v); and

(vii) pursuant to rules adopted by the Department, amounts similar to the items set forth in (i) through (vi) above.

(C) Gross income and special rules.

(i) Gross income. The term "gross income" means the gross income of the person computed under Section 61 of the Internal Revenue Code (without regard to the provisions of subchapter N of the Internal Revenue Code) in any case as if such person were a domestic corporation, partnership, or trust, as applicable. Gross income determined with respect to transactions described in subparagraphs (ii) and (iii) of subparagraph (B) of this paragraph shall include only the excess of gains over losses from such transactions.

(ii) 80/20 dividends. Dividends received by a person, directly or indirectly, with respect to the stock of a corporation that is not a passive income affiliate (as defined in this paragraph) and that would be a member of that person's unitary business group under paragraph (27) of this subsection but for the fact that the corporation or person conducts 80% or more of their business activities outside the United States (as determined under paragraph (27) of this subsection) shall not be considered passive income under subparagraph (B) of this paragraph.

(iii) Exclusion of banks. A person that is organized and doing business under the banking or credit laws of a state or foreign country shall not be considered a passive income affiliate if it is established to the satisfaction of the Director that the person is not formed or availed of for the purpose of avoiding federal income tax or Illinois income tax. If the Director is satisfied that the person is not so formed or availed of, the Director shall issue to the person annually or at other periodic intervals a certification that the person is not a passive income affiliate.

(30) Foreign person. The term "foreign person" means any person who is a nonresident alien individual and any nonindividual other than a person created or organized in the United States or under the law of the United States or of any State.

(31) Employer-owned life insurance contract. The term "employer-owned life insurance contract" means a life insurance contract:

(i) that is owned by a person engaged in a trade or business;

(ii) under which that person (or the trade or business of that person) is directly or indirectly the beneficiary under the contract; and

(iii) covers the life of an insured who is an employee with respect to the trade or business of that person (or an affiliate thereof) on the date the contract is issued.

If coverage for each insured under a master contract is treated as a separate contract for purposes of Sections 817(h), 7702, and 7702A of the Internal Revenue Code, then coverage for each insured shall be treated as a separate contract.

The term "employer-owned life insurance contract" does not include a life insurance contract under which, at the time the contract is issued, the insured is either a director or a highly compensated employee within the meaning of Section 414(q) of the Internal Revenue Code (without regard to paragraph (1)(B)(ii) thereof) or a highly compensated individual within the meaning of Section 105(h)(5) (except that "35 percent" shall be substituted for "25 percent" in subparagraph (C) thereof) of the Internal Revenue Code.

For purposes of this definition, the term "employee" includes any officer or director of the taxpayer, and the term "affiliate" includes any person who is related within the meaning of Section 267(b) or 707(b)(1) of the Internal Revenue Code.

(32) Small business. The term "small business" means that term as it is defined in the Small Business Advisory Act.

(b) Other definitions.

(1) Words denoting number, gender, and so forth, when used in this Act, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof:

(A) Words importing the singular include and apply to several persons, parties or things;

(B) Words importing the plural include the singular; and

(C) Words importing the masculine gender include the feminine as well.

(2) "Company" or "association" as including successors and assigns. The word "company" or "association", when used in reference to a corporation, shall be deemed to embrace the words "successors and assigns of such company or association", and in like manner as if these last-named words, or words of similar import, were expressed.

(3) Other terms. Any term used in any Section of this Act with respect to the application of, or in connection with, the provisions of any other Section of this Act shall have the same meaning as in such other Section.

(c) The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to any small business as defined in the Small Business Advisory Act.

(Source: P.A. 91-535, eff. 1-1-00; 91-913, eff. 1-1-01; 92-846, eff. 8-23-02.)

Section 999. Effective date. This Act takes effect July 1, 2004.".

And on that motion, a call of the roll was had resulting as follows:

Yeas 30; Nays 28.

The following voted in the affirmative:

Clayborne	Haine	Maloney	Sullivan, J.
Collins	Halvorson	Martinez	Trotter
Crotty	Harmon	Meeks	Viverito
Cullerton	Hendon	Munoz	Walsh
del Valle	Hunter	Ronen	Welch
DeLeo	Jacobs	Sandoval	Mr. President
Demuzio	Lightford	Shadid	
Forby	Link	Silverstein	

The following voted in the negative:

Althoff	Jones, W.	Righter	Syverson
Bomke	Lauzen	Risinger	Watson
Brady	Luechtefeld	Roskam	Winkel
Burzynski	Obama	Rutherford	Wojcik
Cronin	Peterson	Schoenberg	
Dillard	Petka	Sieben	
Garrett	Radogno	Soden	
Jones, J.	Rauschenberger	Sullivan, D.	

The motion prevailed.

And the amendment was adopted and ordered printed

There being no further amendments, the bill, as amended, was ordered to a third reading.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Welch, **House Bill No. 848**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 30; Nays 28; Present 1.

The following voted in the affirmative:

Clayborne	Haine	Maloney	Silverstein
Collins	Halvorson	Martinez	Trotter
Crotty	Harmon	Meeks	Viverito
Cullerton	Hendon	Munoz	Walsh
del Valle	Hunter	Obama	Welch
DeLeo	Jacobs	Ronen	Mr. President
Demuzio	Lightford	Schoenberg	
Forby	Link	Shadid	

The following voted in the negative:

Althoff	Jones, J.	Righter	Syverson
Bomke	Jones, W.	Risinger	Watson
Brady	Lauzen	Roskam	Winkel
Burzynski	Luechtefeld	Rutherford	Wojcik
Cronin	Peterson	Sieben	
Dillard	Petka	Soden	
Garrett	Radogno	Sullivan, D.	
Geo-Karis	Rauschenberger	Sullivan, J.	

The following voted present:

Sandoval

This roll call verified.

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

Senator J. Sullivan asked and obtained unanimous consent for the Journal to reflect his affirmative vote on **House Bill No. 848.**

MESSAGES FROM THE HOUSE

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1631

A bill for AN ACT in relation to the Metropolitan Water Reclamation District.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1631

Passed the House, as amended, May 20, 2004.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1

AMENDMENT NO. **1**. Amend Senate Bill 1631 by replacing everything after the enacting clause with the following:

"Section 5. The Property Tax Code is amended by changing Section 15-143 as follows:
(35 ILCS 200/15-143)

Sec. 15-143. Metropolitan Water Reclamation Districts in counties with a population greater than 3,000,000. All property that is located in a county with a population greater than 3,000,000 and that is

owned by a metropolitan water reclamation district ~~districts~~ in a county ~~counties~~ with a population greater than 3,000,000 is exempt. Any such property leased to an entity that is not exempt shall remain exempt, and the leasehold interest of the lessee shall be assessed under Section 9-195 of this Code. The changes made by this amendatory Act of the 93rd General Assembly are declaratory of existing law.
(Source: P.A. 91-546, eff. 8-14-99.)

Section 99. Effective date. This Act takes effect upon becoming law.".

Under the rules, the foregoing **Senate Bill No. 1631**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2175

A bill for AN ACT concerning municipalities.

Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2175
House Amendment No. 2 to SENATE BILL NO. 2175

Passed the House, as amended, May 20, 2004.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1

AMENDMENT NO. **1**. Amend Senate Bill 2175 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by adding Section 7-3-6.2 as follows:
(65 ILCS 5/7-3-6.2 new)

Sec. 7-3-6.2. Split lots. Notwithstanding any other provision of this Code, the owner or owners of record of a split residential lot may disconnect a portion of the lot which (i) is a residentially zoned and platted lot currently lying partially within the corporate limits of and governed by 2 or more municipalities or lying within the unincorporated area of a county and also within the corporate limits of one or more municipalities, and contains less than 20 acres; (ii) is located on the border of the municipality; and (iii) if disconnected, will not result in the isolation of any part of the municipality from the remainder of the municipality. The owner or owners seeking to disconnect a portion of a split lot from a municipality must petition the court in the manner provided in Section 7-3-6 of this Code. In determining whether a lot shall be disconnected under this Section, the court may consider the following: (i) if disconnected, the growth prospects and planning and zoning ordinances, if any, of the municipality will not be unreasonably disrupted; (ii) if disconnected, no substantial disruption will result to existing municipal service facilities, such as, but not limited to, sewer systems, street lighting, water mains, garbage collection, and fire protection; and (iii) if disconnected, the municipality will not be unduly harmed through loss of tax revenue in the future.

An area of land, or any part thereof, disconnected under the provisions of this Section from a municipality which was incorporated at least 2 years prior to the date of the filing of the petition for disconnection shall not be subdivided into lots or blocks within one year from the date of disconnection. A plat of any such proposed subdivision shall not be accepted for recording within such one-year period, unless the land comprising such proposed subdivision shall have been thereafter annexed into a municipality.".

AMENDMENT NO. 2

AMENDMENT NO. **2**. Amend Senate Bill 2175, AS AMENDED, with reference to page and line numbers of House Amendment No. 1, on page 1, by replacing line 5 with the following:
"changing Section 5-2-12 and by adding Section 7-3-6.2 as follows:
(65 ILCS 5/5-2-12) (from Ch. 24, par. 5-2-12)
Sec. 5-2-12. Aldermen or trustees elected at large; vacancies; mayor or president to preside.
(a) If a city or village adopts the managerial form of municipal government but does not elect to choose aldermen or trustees from wards or districts, then the following provisions of this Section shall be

applicable.

(b) The city council shall be elected at large. In cities of less than 50,000 population, the council shall consist of (i) the mayor and 4 councilmen or (ii) the mayor and 6 councilmen if the size of the city council is increased under subsection (k). In cities of at least 50,000 but less than 100,000 population, the council shall consist of the mayor and 6 councilmen. In cities of at least 100,000 but not more than 500,000 population, the council shall consist of the mayor and 8 councilmen.

(c) Except in villages that were governed by Article 4 immediately before the adoption of the managerial form of municipal government, the village board shall be elected at large and shall consist of a president and the number of trustees provided for in Section 5-2-15 or 5-2-17, whichever is applicable.

(d) The term of office of the mayor and councilmen shall be 4 years, provided that in cities of less than 50,000, the 2 councilmen receiving the lowest vote at the first election shall serve for 2 years only; in cities of at least 50,000 but less than 100,000, the 3 councilmen receiving the lowest vote at the first election shall serve for 2 years only; and in cities of at least 100,000 but not more than 500,000, the 4 councilmen receiving the lowest vote at the first election shall serve for 2 years only.

(e) The election of councilmen shall be every 2 years. After the first election, only 2 councilmen in cities of less than 50,000, 3 councilmen in cities of at least 50,000 but less than 100,000, or 4 councilmen in cities of at least 100,000 but not more than 500,000, shall be voted for by each elector at the primary elections, and only 2, 3, or 4 councilmen, as the case may be, shall be voted for by each elector at each biennial general municipal election, to serve for 4 years.

(f) In addition to the requirements of the general election law, the ballots shall be in the form set out in Section 5-2-13. In cities with less than 50,000, the form of ballot prescribed in Section 5-2-13 shall be further modified by printing in the place relating to councilmen the words "Vote for Two", or "Vote for Three" if the size of the city council is increased under subsection (k), instead of the words "Vote for Four". In cities of at least 50,000 but less than 100,000, the ballot shall be modified in that place by printing the words "Vote for Three" instead of the words "Vote for Four". Sections 4-3-5 through 4-3-18, insofar as they may be applicable, shall govern the election of a mayor and councilmen under this Section.

(g) If a vacancy occurs in the office of mayor or councilman, the remaining members of the council, within 60 days after the vacancy occurs, shall fill the vacancy by appointment of some person to the office for the balance of the unexpired term or until the vacancy is filled by interim election under Section 3.1-10-50, and until the successor is elected and has qualified.

(h) Except in villages that were governed by Article 4 immediately before the adoption of the managerial form of municipal government, in villages that have adopted this Article 5 the term of office of the president, the number of trustees to be elected, their terms of office, and the manner of filling vacancies shall be governed by Sections 5-2-14 through 5-2-17.

(i) Any village that adopts the managerial form of municipal government under this Article 5 and that, immediately before that adoption, was governed by the provisions of Article 4, shall continue to elect a mayor and 4 commissioners in accordance with Sections 4-3-5 through 4-3-18, insofar as they may be applicable, except that the 2 commissioners receiving the lowest vote among those elected at the first election after this Article 5 becomes effective in the village shall serve for 2 years only. After that first election, the election of commissioners shall be every 2 years, and 2 commissioners shall be elected at each election to serve for 4 years.

(j) The mayor or president shall preside at all meetings of the council or board and on all ceremonial occasions.

(k) In cities of less than 50,000 population, the city council may, by ordinance, provide that the city council shall, after the next biennial general municipal election, consist of 6 instead of 4 councilmen. If the size of the council is increased to 6 councilmen, then at the next biennial general municipal election, the electors shall vote for 4 instead of 2 councilmen. Of the 4 councilmen elected at that next election, the one receiving the lowest vote at that election shall serve a 2-year term. Thereafter, all terms shall be for 4 years.

(Source: P.A. 87-1119.)".

Under the rules, the foregoing **Senate Bill No. 2175**, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2215

A bill for AN ACT in relation to finance.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2215

Passed the House, as amended, May 20, 2004.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1

AMENDMENT NO. **1**. Amend Senate Bill 2215 by replacing everything after the enacting clause with the following:

"Section 5. The State Finance Act is amended by changing Section 8h as follows:

(30 ILCS 105/8h)

Sec. 8h. Transfers to General Revenue Fund. Notwithstanding any other State law to the contrary, the Director of the Governor's Office of Management and Budget may from time to time direct the State Treasurer and Comptroller to transfer a specified sum from any fund held by the State Treasurer to the General Revenue Fund in order to help defray the State's operating costs for the fiscal year. The total transfer under this Section from any fund in any fiscal year shall not exceed the lesser of 8% of the revenues to be deposited into the fund during that year or 25% of the beginning balance in the fund. No transfer may be made from a fund under this Section that would have the effect of reducing the available balance in the fund to an amount less than the amount remaining unexpended and unreserved from the total appropriation from that fund for that fiscal year. This Section does not apply to any funds that are restricted by federal law to a specific use or to any funds in the Motor Fuel Tax Fund or the Hospital Provider Fund. No transfers may be made under this Section from the Road Fund or the State Construction Account Fund on or after the effective date of this amendatory Act of the 93rd General Assembly. ~~Notwithstanding any other provision of this Section, the total transfer under this Section from the Road Fund or the State Construction Account Fund shall not exceed 5% of the revenues to be deposited into the fund during that year.~~

In determining the available balance in a fund, the Director of the Governor's Office of Management and Budget may include receipts, transfers into the fund, and other resources anticipated to be available in the fund in that fiscal year.

The State Treasurer and Comptroller shall transfer the amounts designated under this Section as soon as may be practicable after receiving the direction to transfer from the Director of the Governor's Office of Management and Budget.

(Source: P.A. 93-32, eff. 6-20-03; 93-659, eff. 2-3-04.)

Section 99. Effective date. This Act takes effect on July 1, 2004.".

Under the rules, the foregoing **Senate Bill No. 2215**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed a bill of the following title, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 6415

A bill for AN ACT in relation to criminal law.

Passed the House, May 20, 2004.

MARK MAHONEY, Clerk of the House

The foregoing **House Bill No. 6415** was taken up, ordered printed and placed on first reading.

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1006

A bill for AN ACT in relation to environmental safety.
Passed the House, May 20, 2004.

MARK MAHONEY, Clerk of the House

COMMITTEE MEETING ANNOUNCEMENTS

Senator Silverstein, Chairperson of the Committee on Executive, announced that the Executive Committee will meet Monday, May 24, 2004 in Room 212 Capitol Building, at 4:00 o'clock p.m.

Senator Link, Chairperson of the Committee on Revenue, announced that the Revenue Committee will meet Monday, May 24, 2004 in Room 400 Capitol Building, at 4:00 o'clock p.m.

Senator Munoz, Chairperson of the Committee on Licensed Activities, announced that the Licensed Activities Committee will meet Monday, May 24, 2004 in Room A-1 Stratton Building, at 5:00 o'clock p.m.

Senator Lightford, Chairperson of the Committee on Financial Institutions, announced that the Financial Institutions Committee will meet Monday, May 24, 2004 in Room 400 Capitol Building, at 5:30 o'clock p.m.

Senator Maloney, Vice-Chairperson of the Committee on Labor and Commerce, announced that the Labor and Commerce Committee will meet Monday, May 24, 2004 in Room 400 Capitol Building, at 5:00 o'clock p.m.

Representative Burzynski announced there would be a Republican caucus immediately upon adjournment.

MESSAGES FROM THE HOUSE

A message from the House by
Mr. Rossi, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has adopted the following joint resolution, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE JOINT RESOLUTION NO. 4

WHEREAS, On April 19th, 1775 a skirmish took place near a bridge at Concord, Massachusetts; and

WHEREAS, In the early hours of that day, three patriots, Paul Revere, William Dawes, and Dr. Samuel Prescott, rode through the streets to warn fellow colonists that British troops had been assembled and were advancing with intention of capturing the colonists' leaders and seizing their supplies; and

WHEREAS, Answering the alarm, men and women congregated on the Village Green in Lexington on the morning of April 19, 1775, took up arms, and commenced the struggle that would end England's control of the colonies; and

WHEREAS, "The Shot Heard 'Round the World" was fired in Concord by determined patriots from the Middlesex countryside, who confronted the "Redcoats" and ultimately forced the British to turn back at North Bridge; and

WHEREAS, Minutemen, militia, and colonists from cities and towns throughout the Commonwealth joined forces along the battle road at Menotomy, now known as Arlington, and overpowered the retreating British; and

WHEREAS, To commemorate this event and the ensuing struggle waged by brave colonial patriots,

it is appropriate to celebrate April 19th of each year; therefore, be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that we designate April 19th of each year as "Patriots Day" in the State of Illinois for the purpose of recognizing and commemorating the day patriotic colonists fired the "shot heard round the world" and the start of the American Revolution; and be it further

RESOLVED, That the people of this State and all public and private entities are urged to observe "Patriots Day" by engaging in appropriate activities that recognize and commemorate this nation's revolutionary struggle and the ideals and principles for which the American Revolution was fought; and be it further

RESOLVED, That a suitable copy of this resolution be presented to the Sons of the American Revolution.

Adopted by the House, June 1, 2003.

MARK MAHONEY, Clerk of the House

The foregoing message from the House of Representatives, reporting House Joint Resolution No. 4, was referred to the Committee on Rules.

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has adopted the following joint resolution, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE JOINT RESOLUTION NO. 64

WHEREAS, Manufacturing jobs, which build and sustain America's middle class, are disappearing; the United States has lost more than 2 million manufacturing jobs since April 1998; and

WHEREAS, Trade agreements, such as GATT, creating the WTO, and NAFTA, were passed with strong bipartisan support, amidst promises from the leadership of both parties that the benefits would far outweigh the negative effects; and

WHEREAS, Studies based on the government's own figures have estimated 3 million actual and potential jobs lost since the signing of the NAFTA in 1994; in Illinois, an estimated 140,900 manufacturing jobs were lost between July 2000 and June 2003, a decline of 16.2%, or one out of every six manufacturing jobs was lost in Illinois; and

WHEREAS, The annual trade deficit has hit a record high of over $450 billion, growing by more than 600 percent in the past 10 years; and

WHEREAS, Our trade deficit with Canada and Mexico has ballooned to nine times its size before NAFTA; since Congress granted China Permanent Normal Trade (PNTR) status in 2000, the U.S. deficit with China has grown more than 20%, by more than $14 billion; and

WHEREAS, The current administration is working on a new trade deal, Free Trade Area of the Americas (FTAA), which is expected to be presented to the U.S. Congress in 2005; and

WHEREAS, The tremendous effects of the manufacturing crisis in Illinois are obvious, on the tax base and budgets, on our local, county, and State governments, schools, and public services; and

WHEREAS, It is incumbent upon the Illinois General Assembly to not only do everything it can to save and attract manufacturing jobs in our State, but legislators must also seriously examine the effects of U.S. trade policy on our State and determine our recommendations to our respective party leadership in Congress; therefore, be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that we will

convene a study committee to investigate and hold public hearings about the effects of U.S. trade policy on Illinois jobs and farms; the study committee shall consist of the following: two members of the House of Representatives appointed by the Speaker of the House of Representatives, one of whom shall serve as co-chairman; two members of the House of Representatives appointed by the Minority Leader of the House of Representatives; two members of the Senate appointed by the President of the Senate, one of whom shall serve as co-chairman; two members of the Senate appointed by the Minority Leader of the Senate; six individuals appointed by the Governor from unions representing manufacturing workers in the State, which will include representatives from the United Steelworkers of America; six individuals appointed by the Governor from manufacturing companies in the State; four individuals appointed by the Governor from the Illinois AFL-CIO Executive Board; and four individuals appointed by the Governor from the Illinois Manufacturers' Association; and be it further

RESOLVED, That the study committee shall meet at least four times while the General Assembly is in recess, inviting workers, labor unions, employers, academics, and farm and trade experts to testify; the panel shall make recommendations to the Governor and to the U.S. Congressional delegation and the President as to the future direction on trade agreements and what must be done immediately to reverse the continual loss of middle class jobs in our State; and be it further

RESOLVED, That the members of the study committee shall receive no compensation for their services but shall be reimbursed for their necessary expenses incurred while serving as study committee members; and be it further

RESOLVED, That the study committee shall file a final report, containing its findings and recommendations, with the Governor and the General Assembly no later than January 3, 2005.

Adopted by the House, May 20, 2004.

MARK MAHONEY, Clerk of the House

The foregoing message from the House of Representatives, reporting House Joint Resolution No. 64, was referred to the Committee on Rules.

PRESENTATION OF RESOLUTION

SENATE RESOLUTION 566

Offered by Senator Schoenberg and all Senators:
Mourns the death of Kathleen Crowley of Glencoe

By unanimous consent, the foregoing resolution was referred to the Resolutions Consent Calendar.

RESOLUTIONS CONSENT CALENDAR

SENATE RESOLUTION 538

Offered by Senator Clayborne and all Senators:
Mourns the death of Myrtle Bernadine Gilliam Officer of East St. Louis.

SENATE RESOLUTION 539

Offered by Senator Clayborne and all Senators:
Mourns the death of Robert Charles Boken, M.D.

SENATE RESOLUTION 540

Offered by Senator Risinger and all Senators:
Mourns the death of John Calvin “JC” Knapp of Knoxville.

SENATE RESOLUTION 541

Offered by Senator Risinger and all Senators:
Mourns the death of Joseph M. Patterson of Galesburg.

SENATE RESOLUTION 542
Offered by Senator Risinger and all Senators:
Mourns the death of Ivan Walter Schroeder of Galesburg.

SENATE RESOLUTION 543
Offered by Senators E. Jones - Link and all Senators:
Mourns the death of Howard L. Sims of Pana.

SENATE RESOLUTION 544
Offered by Senator Hunter and all Senators:
Mourns the death of Patricia A. Doering of Norwood Park.

SENATE RESOLUTION 545
Offered by Senator Lightford and all Senators:
Mourns the death of Cylerstine Lucas.

SENATE RESOLUTION 547
Offered by Senator D. Sullivan and all Senators:
Mourns the death of Mary E. "Betty" Brosius of Arlington Heights.

SENATE RESOLUTION 548
Offered by Senator D. Sullivan and all Senators:
Mourns the death of Lance Cpl. Phillip E. Frank of Elk Grove.

SENATE RESOLUTION 550
Offered by Senator Harmon and all Senators:
Mourns the death of Virgil P. Vergara of Arlington Heights.

SENATE RESOLUTION 551
Offered by Senator Dillard and all Senators:
Mourns the death of Dr. Mina Rea Perlow of Downers Grove.

SENATE RESOLUTION 553
Offered by Senator Forby and all Senators:
Mourns the death of Ken Ledbetter of Ullin.

SENATE RESOLUTION 554
Offered by Senator Forby and all Senators:
Mourns the death of Peggy Ann (Cook) Womble of Benton.

SENATE RESOLUTION 555
Offered by Senator Lauzen and all Senators:
Mourns the death of Helen J. Shumway of Batavia.

SENATE RESOLUTION 556
Offered by Senator Dillard and all Senators:
Mourns the death of Frances Nies Rossbach formerly of Clarendon Hills.

SENATE RESOLUTION 557
Offered by Senators Link – Peterson – Geo-Karis - Garrett and all Senators:
Mourns the death Judge Thomas R. Smoker of Lake Forest.

SENATE RESOLUTION 558
Offered by Senator Jacobs and all Senators:
Mourns the death of Mary Jo Novak of Rock Island.

SENATE RESOLUTION 559

Offered by Senator Jacobs and all Senators:
Mourns the death of U.S. Army National Guard Sergeant Landis Garrison of Rapid City.

SENATE RESOLUTION 560

Offered by Senator Clayborne and all Senators:
Mourns the death of Milton Thomas Green, Jr. of Belleville.

SENATE RESOLUTION 561

Offered by Senator Clayborne and all Senators:
Mourns the death of Paul C. Sauget of Sauget.

SENATE RESOLUTION 562

Offered by Senators Harmon – Cullerton - Walsh and all Senators:
Mourns the death of Jeffrey C. Bergstrom of Chicago.

SENATE RESOLUTION 563

Offered by Senator Shadid and all Senators:
Mourns the death of William J. "Billy" Stone of Germantown Hills.

SENATE RESOLUTION 566

Offered by Senator Schoenberg and all Senators:
Mourns the death of Kathleen Crowley of Glencoe.

Senator DeLeo moved the adoption of the foregoing resolutions.
The motion prevailed.
And the resolutions were adopted.

MESSAGE FROM THE HOUSE

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has adopted the following House Joint Resolution, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE JOINT RESOLUTION NO. 88

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that when the two Houses adjourn on Thursday, May 20, 2004, they stand adjourned until Monday, May 24, 2004.

Adopted by the House, May 20, 2004.

MARK MAHONEY, Clerk of the House

By unanimous consent, on motion of Senator Welch, the foregoing message reporting House Joint Resolution No. 88 was taken up for immediate consideration.

Senator Welch moved that the Senate concur with the House in the adoption of the resolution.

The motion prevailed.

And the Senate concurred with the House in the adoption of the resolution.

Ordered that the Secretary inform the House of Representatives thereof.

At the hour of 7:25 o'clock p.m., pursuant to **House Joint Resolution No. 88**, the Chair announced the Senate stand adjourned until Monday, May 24, 2004, at 3:00 o'clock p.m.