



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2795

by Rep. La Shawn K. Ford

SYNOPSIS AS INTRODUCED:

New Act	
35 ILCS 5/203	from Ch. 120, par. 2-203
705 ILCS 505/8	from Ch. 37, par. 439.8
705 ILCS 505/11	from Ch. 37, par. 439.11
705 ILCS 505/22	from Ch. 37, par. 439.22
705 ILCS 505/24	from Ch. 37, par. 439.24
745 ILCS 5/1	from Ch. 127, par. 801

Creates the Compensation for Wrongfully Imprisoned Persons Act. Provides that the Comptroller shall pay moneys to claimants who meet certain criteria related to wrongful imprisonment. Contains provisions governing; notice to wrongfully imprisoned persons; application procedures; lump sum compensation; annuity payments; beneficiaries; payment of certain tuition and fees; attorney's fees; administrative payment of compensation; reporting requirements; State and local government liability; and termination of payments. Amends the Court of Claims Act by repealing provisions concerning claims for unjust imprisonment. Makes corresponding changes in the Illinois Income Tax Act and the State Lawsuit Immunity Act.

LRB100 10296 HEP 20483 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning wrongfully imprisoned persons.

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

4 Article 1. General provisions.

5 Section 1-1. Short title. This Act may be cited as the
6 Compensation for Wrongfully Imprisoned Persons Act.

7 Article 5. Eligibility; notice of eligibility.

8 Section 5-5. Claimants entitled to compensation and health
9 benefits coverage.

10 (a) A person is entitled to compensation if:

11 (1) the person has served in whole or in part a
12 sentence in prison under the laws of this State; and

13 (2) the person:

14 (A) has received a full pardon on the ground of
15 innocence of the crime for which the person was
16 sentenced; or

17 (B) received a certificate of innocence from the
18 circuit court under Section 2-702 of the Code of Civil
19 Procedure.

20 (b) A person is not entitled to compensation under
21 subsection (a) for any part of a sentence in prison during

1 which the person was also serving a concurrent sentence for
2 another crime to which subsection (a) does not apply.

3 (c) If a deceased person would be entitled to compensation
4 under paragraph (2) of subsection (a) of this Section if
5 living, including a person who received a posthumous pardon,
6 the person's heirs, legal representatives, and estate are
7 entitled to lump sum compensation under Section 10-10.

8 (d) Subject to this Section, a person entitled to
9 compensation under subsection (a) is also eligible to obtain
10 group health benefit plan coverage through the Department of
11 Corrections as if the person were an employee of the
12 Department. This subsection does not entitle the person's
13 spouse or other dependent or family member to group health
14 benefit plan coverage. Coverage may be obtained under this
15 subsection for a period of time equal to the total period the
16 claimant served for the crime for which the claimant was
17 wrongfully imprisoned, including any period during which the
18 claimant was released on parole or to mandatory supervision or
19 required to register under the Sex Offender Registration Act. A
20 person who elects to obtain coverage under this subsection
21 shall pay a monthly contribution equal to the total amount of
22 the monthly contributions for that coverage for an employee of
23 the Department.

24 (e) Notwithstanding subsection (c) of Section 10-15,
25 annuity payments may be reduced by an amount necessary to make
26 the payments required by subsection (d), and that amount shall

1 be transferred to an appropriate account as provided by the
2 Comptroller by rule to fund that coverage.

3 Section 5-10. Notice to wrongfully imprisoned person.

4 (a) In this Section:

5 (1) "Department" means the Illinois Department of
6 Corrections.

7 (2) "Correctional facility" has the meaning provided
8 in Section 3-1-2 of the Unified Code of Corrections.

9 (3) "Wrongfully imprisoned person" has the meaning
10 provided in Section 3-1-2 of the Unified Code of
11 Corrections.

12 (b) The Department shall provide to each wrongfully
13 imprisoned person information, both orally and in writing, that
14 includes:

15 (1) guidance on how to obtain compensation under this
16 Act; and

17 (2) a list of and contact information for nonprofit
18 advocacy groups, identified by the Department, that assist
19 wrongfully imprisoned persons in filing claims for
20 compensation under this Act.

21 (c) The Department shall provide the information required
22 under subsection (b):

23 (1) at the time of the release of the wrongfully
24 imprisoned person from a correctional facility; or

25 (2) as soon as practicable after the Department has

1 reason to believe that the person is entitled to
2 compensation under Section 5-5.

3 Section 5-15. Limitation on time to file. A person seeking
4 compensation under this Act must file an application with the
5 Comptroller for compensation under Article 10 not later than
6 the 3 years after:

7 (1) the person on whose imprisonment the claim is based
8 received a pardon as provided by subdivision (a) (2) (A) of
9 Section 5-5;

10 (2) the person's for postconviction relief or a writ of
11 habeas corpus was granted as provided by subdivision (a) (2) (B)
12 of Section 5-5; or

13 (3) an order of dismissal described by subdivision
14 (a) (2) (C) of Section 5-5.

15 Article 10. Administrative proceeding.

16 Section 10-5. Application procedure.

17 (a) To apply for compensation under this Act, the claimant
18 must file with the Comptroller:

19 (1) an application for compensation provided for that
20 purpose by the Comptroller;

21 (2) a verified copy of the pardon or certificate of
22 innocence, as applicable, justifying the application for
23 compensation;

1 (3) a statement provided by the Department of
2 Corrections and any county or municipality that
3 incarcerated the person on whose imprisonment the claim is
4 based in connection with the relevant sentence verifying
5 the length of incarceration;

6 (4) if applicable, a statement from the Department of
7 State Police verifying registration as a sex offender and
8 length of registration;

9 (5) if applicable, a statement from the Department of
10 Corrections verifying the length of time spent on parole or
11 mandatory supervised release; and

12 (6) if the claimant is applying for compensation under
13 subdivision (a)(2) of Section 10-10, a certified copy of
14 each child support order under which child support payments
15 became due during the time the claimant served in prison
16 and copies of the official child support payment records
17 for that period.

18 (b) The Comptroller shall determine:

19 (1) the eligibility of the claimant; and

20 (2) the amount of compensation owed to an eligible
21 claimant.

22 (b-1) In determining the eligibility of a claimant, the
23 Comptroller shall consider only the verified copies of
24 documents filed under subsection (a). If the filed documents do
25 not clearly indicate on their face that the person is entitled
26 to compensation under subsection (a) of Section 5-5, the

1 Comptroller shall deny the claim. The Comptroller's duty to
2 determine the eligibility of a claimant under this Section is
3 purely ministerial.

4 (c) The Comptroller shall make a determination of
5 eligibility and the amount owed as required by subsection (b)
6 not later than the 45th day after the date the application is
7 received.

8 (d) If the Comptroller denies the claim, the Comptroller
9 must state the reason for the denial. Not later than the 30th
10 day after the date the denial is received, the claimant must
11 submit an application to cure any problem identified. Not later
12 than the 45th day after the date an application is received
13 under this subsection, the Comptroller shall determine the
14 claimant's eligibility and the amount owed.

15 (e) If the Comptroller denies a claim after the claimant
16 submits an application under subsection (d), the claimant may
17 bring an action for mandamus relief.

18 (f) To apply for coverage through the Department of
19 Corrections under subsection (d) of Section 5-5, the claimant
20 must file with the Department:

21 (1) an application for coverage provided for that
22 purpose by the Department; and

23 (2) a statement by the Comptroller that the Comptroller
24 has determined the claimant to be eligible for compensation
25 under this Article.

1 Section 10-10. lump sum compensation.

2 (a) A person who meets the requirements of Section 5-5 is
3 entitled to compensation in an amount equal to:

4 (1) \$80,000 multiplied by the number of years served in
5 prison, expressed as a fraction to reflect partial years;
6 and

7 (2) compensation for child support payments owed by the
8 person on whose imprisonment the claim is based that became
9 due and interest on child support arrearages that accrued
10 during the time served in prison but were not paid.

11 (b) A person who, after serving a sentence for which the
12 person is entitled to compensation under paragraph (1) of
13 subsection (a), was released on mandatory supervised release or
14 required to register as a sex offender under the Sex Offender
15 Registration Act, is entitled to compensation in an amount
16 equal to \$25,000 multiplied by the number of years served
17 either on mandatory supervised release or as a registered sex
18 offender, expressed as a fraction to reflect partial years.

19 (c) The amount of compensation under paragraph (2) of
20 subsection (a) to which a person is entitled shall be paid on
21 the person's behalf in a lump sum payment to the State
22 Disbursement Unit for distribution to the obligee under the
23 child support order under Article X of the Illinois Public Aid
24 Code.

25 Section 10-15. Annuity compensation generally; standard

1 annuity payments.

2 (a) A person entitled to compensation under Section 5-5 is
3 entitled to standard annuity payments under this Section unless
4 the person elects to receive alternative annuity payments under
5 Section 10-20.

6 (a-1) Standard annuity payments are based on a present
7 value sum equal to the amount to which the person is entitled
8 under paragraph (1) of subsection (a) and subsection (b) of
9 Section 10-10.

10 (b) Standard annuity payments are payable in equal monthly
11 installments for the life of the claimant.

12 (c) Annuity payments under this Act shall be based on a 5%
13 per annum interest rate and other actuarial factors within the
14 discretion of the Comptroller. Annuity payments under this Act
15 may not be accelerated, deferred, increased, or decreased. A
16 person entitled to annuity payments under this Act, including a
17 claimant's spouse or designated beneficiary entitled to
18 payments under Section 10-20, may not sell, mortgage, or
19 otherwise encumber, or anticipate the payments, wholly or
20 partly, by assignment or otherwise.

21 Section 10-20. Alternative annuity compensation.

22 (a) A person entitled to compensation under Section 5-5 may
23 elect to receive reduced alternative annuity payments under
24 this Section instead of standard annuity payments.

25 (b) Alternative annuity payments are payable throughout

1 the life of the claimant and are actuarially reduced from the
2 standard annuity payments to their actuarial equivalent under
3 the option selected under subsection (c).

4 (c) A claimant may select one of the following options,
5 which provide that:

6 (1) after the claimant's death, the alternative
7 annuity payments are payable to and throughout the life of
8 the claimant's spouse;

9 (2) after the claimant's death, 75% of the initial
10 alternative annuity payment amount is payable to and
11 throughout the life of the claimant's spouse;

12 (3) after the claimant's death, 50% of the initial
13 alternative annuity payment amount is payable to and
14 throughout the life of the claimant's spouse;

15 (4) if the claimant dies before 180 monthly alternative
16 annuity payments have been made, the remainder of the 180
17 payments are payable to the claimant's spouse or designated
18 beneficiary; or

19 (5) if the claimant dies before 120 monthly alternative
20 annuity payments have been made, the remainder of the 120
21 payments are payable to the claimant's spouse or designated
22 beneficiary.

23 (d) An election under this Section must be made not later
24 than the 45th day after the date on which the claimant files
25 with the Comptroller the application required by Section 10-5
26 on a form prescribed by the Comptroller that:

1 (1) identifies the claimant's spouse or designated
2 beneficiary according to Section 10-25; and

3 (2) specifies the option selected under subsection
4 (c).

5 (e) A claimant who elects to receive alternative annuity
6 payments under this Section that are payable to the claimant
7 and the claimant's spouse and survives the claimant's spouse is
8 entitled to an increase in the amount of the claimant's monthly
9 annuity payments so that the claimant's monthly payments equal
10 the monthly payments the claimant would have received had the
11 claimant not elected to receive the alternative annuity
12 payments. The claimant is entitled to the increased payments
13 beginning the month after the month in which the claimant's
14 spouse dies and ending on the date of the claimant's death.

15 Section 10-25. Designated beneficiary.

16 (a) A claimant who selects a designated beneficiary to
17 receive the remainder of the alternative annuity payments
18 payable under paragraph (4) or (5) of subsection (c) of Section
19 10-20 may designate:

20 (1) one designated beneficiary to receive the
21 remainder of the annuity payments;

22 (2) 2 or more designated beneficiaries to receive the
23 remainder of the annuity payments in equal amounts; or

24 (3) a primary designated beneficiary to receive the
25 remainder of the annuity payments and an additional

1 beneficiary.

2 (b) If a designated beneficiary designated under paragraph
3 (2) of subsection (a) dies before the remainder of the annuity
4 payments are paid, the Comptroller shall recalculate the
5 payments so that the remaining designated beneficiaries
6 receive the remainder of the annuity payments in equal amounts.

7 (c) An additional beneficiary designated under paragraph
8 (3) of subsection (a) takes the place of the primary
9 beneficiary if the primary beneficiary dies before the
10 remainder of the annuity payments are paid. A claimant may
11 select not more than 4 additional beneficiaries and shall
12 determine the order in which the additional beneficiaries are
13 to succeed the primary beneficiary. The remainder of the
14 annuity payments under this subsection are paid to one
15 beneficiary at a time until the beneficiary dies or the
16 remaining annuity payments are paid. If each additional
17 beneficiary dies before the remainder of the annuity payments
18 are paid, the remainder of the annuity payments are payable to
19 the claimant's estate.

20 (d) A designated beneficiary under this Section must be a
21 dependent of the claimant. As used in this subsection,
22 "dependent" includes a claimant's spouse, minor child, and any
23 other person for whom the claimant is legally obligated to
24 provide support, including maintenance.

25 Section 10-30. Payment of certain tuition and fees. If

1 requested by the claimant before the 7th anniversary of the
2 relevant date described by Section 5-5, tuition for up to 120
3 credit hours and any mandatory fees associated with attendance
4 at the institution, charged by a career center or public
5 institution of higher education, shall be paid on behalf of the
6 claimant.

7 Article 15. Fees.

8 Section 15-5. Fees limited; prerequisites to fee
9 agreement.

10 (a) A person, including an attorney, may not charge or
11 collect a fee for preparing, filing, or curing a claimant's
12 application under Section 10-5 unless the fee is based on a
13 reasonable hourly rate.

14 (b) An attorney may enter into a fee agreement with a
15 claimant for services related to an application under Section
16 10-5 only after the attorney has disclosed in writing to the
17 claimant the hourly rate that will be charged for the services.

18 (c) An attorney may not collect a fee for preparing,
19 filing, or curing a claimant's application under Section 10-5
20 before a final determination is made by the Comptroller that
21 the claimant is eligible or ineligible for compensation under
22 this Act.

23 Section 15-10. Submission of fee report.

1 (a) Together with an application for compensation under
2 this Act or not later than the 14th day after the date the
3 application or cured application is filed, a person seeking
4 payment for preparing, filing, or curing the application must
5 file a fee report with the Comptroller's judiciary section.

6 (b) A fee report under this Section must include:

7 (1) the total dollar amount sought for fees;

8 (2) the number of hours the person worked preparing,
9 filing, or curing the application; and

10 (3) the name of the applicant.

11 (c) A fee report under this Section is a public record
12 under the Freedom of Information Act.

13 Article 20. Payments and limitations.

14 Section 20-5. Administrative payment of compensation.

15 (a) The Comptroller shall make the compensation due under
16 Article 10 to be paid to the State Disbursement Unit, if any,
17 to the extent that funds are available and appropriated for
18 that purpose, not later than the 30th day after the date the
19 Comptroller grants the application. A claim for lump sum
20 compensation payable under subsection (a) or (b) of Section
21 10-10 shall survive the death of the claimant in favor of the
22 heirs, legal representatives, and estate of the claimant.

23 (b) The Comptroller shall begin making annuity payments
24 under Section 10-15 or 10-20 on the first anniversary of the

1 date of payment of the compensation due under Section 10-10.

2 (c) If appropriated funds are insufficient to pay the
3 amount due a claimant and the amount to be paid to the State
4 Disbursement Unit, money shall be paid under the procedure
5 described by Section 20-10.

6 Section 20-10. Payment of compensation.

7 (a) Not later than January 1 of each year, the Comptroller
8 shall provide a list of claimants entitled to payment under
9 Article 10 and the amounts due for each claimant to the
10 Governor and the General Assembly so that the General Assembly
11 may appropriate the amount needed to pay the amount owed to
12 each claimant and the amount to be paid to the State
13 Disbursement Unit on the claimant's behalf.

14 (b) Not later than September 1 of the year in which an
15 appropriation under this Act has been made by the General
16 Assembly, the Comptroller shall pay the required amount to each
17 claimant and the State Disbursement Unit.

18 Section 20-15. Employees and entities not liable after
19 payment of compensation. A person who receives compensation
20 under this Act may not bring any action involving the same
21 subject matter, including an action involving the person's
22 arrest, conviction, or length of confinement, against the State
23 or a State employee, or against a public entity or public
24 employee, as those terms are defined in the Local Governmental

1 and Governmental Employees Tort Immunity Act.

2 Section 20-20. Termination of payments.

3 (a) Except as provided by subsection (c), compensation
4 payments under this Act terminate if, after the date the
5 claimant becomes eligible for compensation under Section 5-5,
6 the claimant is convicted of a crime punishable as a felony.
7 Annuity payments to a claimant's spouse or designated
8 beneficiary under this Act terminate if, after the date the
9 spouse or designated beneficiary begins receiving annuity
10 payments, the spouse or designated beneficiary is convicted of
11 a crime punishable as a felony. Payments terminate under this
12 subsection on the date of the felony conviction. If annuity
13 payments to a designated beneficiary are terminated under this
14 subsection, the remainder of the annuity payments are payable
15 under Section 10-25 as if the beneficiary died on the date of
16 termination.

17 (b) Except as provided by Sections 10-20 and 10-25:

18 (1) annuity payments to a person under this Act
19 terminate on the date of the person's death; and

20 (2) payments scheduled to be paid after that date are
21 credited to the State and may not be paid to any other
22 person, including the person's surviving spouse, heirs,
23 devisees, or beneficiaries under the person's will, or to
24 the person's estate.

25 (c) This Section does not apply to compensation for child

1 support payments and interest on child support arrearages to be
2 paid on a person's behalf under this Act to the State
3 Disbursement Unit.

4 Article 25. Amendatory provisions.

5 Section 25-5. The Illinois Income Tax Act is amended by
6 changing Section 203 as follows:

7 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

8 Sec. 203. Base income defined.

9 (a) Individuals.

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (D-17) An amount equal to the amount otherwise
5 allowed as a deduction in computing base income for
6 interest paid, accrued, or incurred, directly or
7 indirectly, (i) for taxable years ending on or after
8 December 31, 2004, to a foreign person who would be a
9 member of the same unitary business group but for the
10 fact that foreign person's business activity outside
11 the United States is 80% or more of the foreign
12 person's total business activity and (ii) for taxable
13 years ending on or after December 31, 2008, to a person
14 who would be a member of the same unitary business
15 group but for the fact that the person is prohibited
16 under Section 1501(a)(27) from being included in the
17 unitary business group because he or she is ordinarily
18 required to apportion business income under different
19 subsections of Section 304. The addition modification
20 required by this subparagraph shall be reduced to the
21 extent that dividends were included in base income of
22 the unitary group for the same taxable year and
23 received by the taxpayer or by a member of the
24 taxpayer's unitary business group (including amounts
25 included in gross income under Sections 951 through 964
26 of the Internal Revenue Code and amounts included in

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

4 This paragraph shall not apply to the following:

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

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

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

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

26 (iii) the taxpayer can establish, based on

1 clear and convincing evidence, that the interest
2 paid, accrued, or incurred relates to a contract or
3 agreement entered into at arm's-length rates and
4 terms and the principal purpose for the payment is
5 not federal or Illinois tax avoidance; or

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

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

22 (D-18) An amount equal to the amount of intangible
23 expenses and costs otherwise allowed as a deduction in
24 computing base income, and that were paid, accrued, or
25 incurred, directly or indirectly, (i) for taxable
26 years ending on or after December 31, 2004, to a

1 foreign person who would be a member of the same
2 unitary business group but for the fact that the
3 foreign person's business activity outside the United
4 States is 80% or more of that person's total business
5 activity and (ii) for taxable years ending on or after
6 December 31, 2008, to a person who would be a member of
7 the same unitary business group but for the fact that
8 the person is prohibited under Section 1501(a)(27)
9 from being included in the unitary business group
10 because he or she is ordinarily required to apportion
11 business income under different subsections of Section
12 304. The addition modification required by this
13 subparagraph shall be reduced to the extent that
14 dividends were included in base income of the unitary
15 group for the same taxable year and received by the
16 taxpayer or by a member of the taxpayer's unitary
17 business group (including amounts included in gross
18 income under Sections 951 through 964 of the Internal
19 Revenue Code and amounts included in gross income under
20 Section 78 of the Internal Revenue Code) with respect
21 to the stock of the same person to whom the intangible
22 expenses and costs were directly or indirectly paid,
23 incurred, or accrued. The preceding sentence does not
24 apply to the extent that the same dividends caused a
25 reduction to the addition modification required under
26 Section 203(a)(2)(D-17) of this Act. As used in this

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

15 This paragraph shall not apply to the following:

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

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

1 following:

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

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

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

21 Nothing in this subsection shall preclude the
22 Director from making any other adjustment
23 otherwise allowed under Section 404 of this Act for
24 any tax year beginning after the effective date of
25 this amendment provided such adjustment is made
26 pursuant to regulation adopted by the Department

1 and such regulations provide methods and standards
2 by which the Department will utilize its authority
3 under Section 404 of this Act;

4 (D-19) For taxable years ending on or after
5 December 31, 2008, an amount equal to the amount of
6 insurance premium expenses and costs otherwise allowed
7 as a deduction in computing base income, and that were
8 paid, accrued, or incurred, directly or indirectly, to
9 a person who would be a member of the same unitary
10 business group but for the fact that the person is
11 prohibited under Section 1501(a)(27) from being
12 included in the unitary business group because he or
13 she is ordinarily required to apportion business
14 income under different subsections of Section 304. The
15 addition modification required by this subparagraph
16 shall be reduced to the extent that dividends were
17 included in base income of the unitary group for the
18 same taxable year and received by the taxpayer or by a
19 member of the taxpayer's unitary business group
20 (including amounts included in gross income under
21 Sections 951 through 964 of the Internal Revenue Code
22 and amounts included in gross income under Section 78
23 of the Internal Revenue Code) with respect to the stock
24 of the same person to whom the premiums and costs were
25 directly or indirectly paid, incurred, or accrued. The
26 preceding sentence does not apply to the extent that

1 the same dividends caused a reduction to the addition
2 modification required under Section 203(a)(2)(D-17) or
3 Section 203(a)(2)(D-18) of this Act.

4 (D-20) For taxable years beginning on or after
5 January 1, 2002 and ending on or before December 31,
6 2006, in the case of a distribution from a qualified
7 tuition program under Section 529 of the Internal
8 Revenue Code, other than (i) a distribution from a
9 College Savings Pool created under Section 16.5 of the
10 State Treasurer Act or (ii) a distribution from the
11 Illinois Prepaid Tuition Trust Fund, an amount equal to
12 the amount excluded from gross income under Section
13 529(c)(3)(B). For taxable years beginning on or after
14 January 1, 2007, in the case of a distribution from a
15 qualified tuition program under Section 529 of the
16 Internal Revenue Code, other than (i) a distribution
17 from a College Savings Pool created under Section 16.5
18 of the State Treasurer Act, (ii) a distribution from
19 the Illinois Prepaid Tuition Trust Fund, or (iii) a
20 distribution from a qualified tuition program under
21 Section 529 of the Internal Revenue Code that (I)
22 adopts and determines that its offering materials
23 comply with the College Savings Plans Network's
24 disclosure principles and (II) has made reasonable
25 efforts to inform in-state residents of the existence
26 of in-state qualified tuition programs by informing

1 Illinois residents directly and, where applicable, to
2 inform financial intermediaries distributing the
3 program to inform in-state residents of the existence
4 of in-state qualified tuition programs at least
5 annually, an amount equal to the amount excluded from
6 gross income under Section 529(c)(3)(B).

7 For the purposes of this subparagraph (D-20), a
8 qualified tuition program has made reasonable efforts
9 if it makes disclosures (which may use the term
10 "in-state program" or "in-state plan" and need not
11 specifically refer to Illinois or its qualified
12 programs by name) (i) directly to prospective
13 participants in its offering materials or makes a
14 public disclosure, such as a website posting; and (ii)
15 where applicable, to intermediaries selling the
16 out-of-state program in the same manner that the
17 out-of-state program distributes its offering
18 materials;

19 (D-21) For taxable years beginning on or after
20 January 1, 2007, in the case of transfer of moneys from
21 a qualified tuition program under Section 529 of the
22 Internal Revenue Code that is administered by the State
23 to an out-of-state program, an amount equal to the
24 amount of moneys previously deducted from base income
25 under subsection (a)(2)(Y) of this Section;

26 (D-22) For taxable years beginning on or after

1 January 1, 2009, in the case of a nonqualified
2 withdrawal or refund of moneys from a qualified tuition
3 program under Section 529 of the Internal Revenue Code
4 administered by the State that is not used for
5 qualified expenses at an eligible education
6 institution, an amount equal to the contribution
7 component of the nonqualified withdrawal or refund
8 that was previously deducted from base income under
9 subsection (a)(2)(y) of this Section, provided that
10 the withdrawal or refund did not result from the
11 beneficiary's death or disability;

12 (D-23) An amount equal to the credit allowable to
13 the taxpayer under Section 218(a) of this Act,
14 determined without regard to Section 218(c) of this
15 Act;

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

18 (E) For taxable years ending before December 31,
19 2001, any amount included in such total in respect of
20 any compensation (including but not limited to any
21 compensation paid or accrued to a serviceman while a
22 prisoner of war or missing in action) paid to a
23 resident by reason of being on active duty in the Armed
24 Forces of the United States and in respect of any
25 compensation paid or accrued to a resident who as a
26 governmental employee was a prisoner of war or missing

1 in action, and in respect of any compensation paid to a
2 resident in 1971 or thereafter for annual training
3 performed pursuant to Sections 502 and 503, Title 32,
4 United States Code as a member of the Illinois National
5 Guard or, beginning with taxable years ending on or
6 after December 31, 2007, the National Guard of any
7 other state. For taxable years ending on or after
8 December 31, 2001, any amount included in such total in
9 respect of any compensation (including but not limited
10 to any compensation paid or accrued to a serviceman
11 while a prisoner of war or missing in action) paid to a
12 resident by reason of being a member of any component
13 of the Armed Forces of the United States and in respect
14 of any compensation paid or accrued to a resident who
15 as a governmental employee was a prisoner of war or
16 missing in action, and in respect of any compensation
17 paid to a resident in 2001 or thereafter by reason of
18 being a member of the Illinois National Guard or,
19 beginning with taxable years ending on or after
20 December 31, 2007, the National Guard of any other
21 state. The provisions of this subparagraph (E) are
22 exempt from the provisions of Section 250;

23 (F) An amount equal to all amounts included in such
24 total pursuant to the provisions of Sections 402(a),
25 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the
26 Internal Revenue Code, or included in such total as

1 distributions under the provisions of any retirement
2 or disability plan for employees of any governmental
3 agency or unit, or retirement payments to retired
4 partners, which payments are excluded in computing net
5 earnings from self employment by Section 1402 of the
6 Internal Revenue Code and regulations adopted pursuant
7 thereto;

8 (G) The valuation limitation amount;

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

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

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

25 (K) An amount equal to those dividends included in
26 such total that were paid by a corporation that

1 conducts business operations in a federally designated
2 Foreign Trade Zone or Sub-Zone and that is designated a
3 High Impact Business located in Illinois; provided
4 that dividends eligible for the deduction provided in
5 subparagraph (J) of paragraph (2) of this subsection
6 shall not be eligible for the deduction provided under
7 this subparagraph (K);

8 (L) For taxable years ending after December 31,
9 1983, an amount equal to all social security benefits
10 and railroad retirement benefits included in such
11 total pursuant to Sections 72(r) and 86 of the Internal
12 Revenue Code;

13 (M) With the exception of any amounts subtracted
14 under subparagraph (N), an amount equal to the sum of
15 all amounts disallowed as deductions by (i) Sections
16 171(a) (2), and 265(2) of the Internal Revenue Code,
17 and all amounts of expenses allocable to interest and
18 disallowed as deductions by Section 265(1) of the
19 Internal Revenue Code; and (ii) for taxable years
20 ending on or after August 13, 1999, Sections 171(a) (2),
21 265, 280C, and 832(b) (5) (B) (i) of the Internal Revenue
22 Code, plus, for taxable years ending on or after
23 December 31, 2011, Section 45G(e) (3) of the Internal
24 Revenue Code and, for taxable years ending on or after
25 December 31, 2008, any amount included in gross income
26 under Section 87 of the Internal Revenue Code; the

1 provisions of this subparagraph are exempt from the
2 provisions of Section 250;

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

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

15 (P) An amount equal to the amount of the deduction
16 used to compute the federal income tax credit for
17 restoration of substantial amounts held under claim of
18 right for the taxable year pursuant to Section 1341 of
19 the Internal Revenue Code or of any itemized deduction
20 taken from adjusted gross income in the computation of
21 taxable income for restoration of substantial amounts
22 held under claim of right for the taxable year;

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

1 an indemnity for a terminal illness;

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

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

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

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

25 (V) Beginning with tax years ending on or after
26 December 31, 1995 and ending with tax years ending on

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

26 (W) For taxable years beginning on or after January

1 1, 1998, all amounts included in the taxpayer's federal
2 gross income in the taxable year from amounts converted
3 from a regular IRA to a Roth IRA. This paragraph is
4 exempt from the provisions of Section 250;

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

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

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

1 contributed under this subparagraph (Y). For purposes
2 of this subparagraph, contributions made by an
3 employer on behalf of an employee, or matching
4 contributions made by an employee, shall be treated as
5 made by the employee. This subparagraph (Y) is exempt
6 from the provisions of Section 250;

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

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

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

24 (3) for taxable years ending after December
25 31, 2005:

26 (i) for property on which a bonus

1 depreciation deduction of 30% of the adjusted
2 basis was taken, "x" equals "y" multiplied by
3 30 and then divided by 70 (or "y" multiplied by
4 0.429); and

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

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

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

22 If the taxpayer continues to own property through
23 the last day of the last tax year for which the
24 taxpayer may claim a depreciation deduction for
25 federal income tax purposes and for which the taxpayer
26 was required in any taxable year to make an addition

1 modification under subparagraph (D-15), then an amount
2 equal to that addition modification.

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

6 This subparagraph (AA) is exempt from the
7 provisions of Section 250;

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

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

1 exempt from the provisions of Section 250;

2 (DD) An amount equal to the interest income taken
3 into account for the taxable year (net of the
4 deductions allocable thereto) with respect to
5 transactions with (i) a foreign person who would be a
6 member of the taxpayer's unitary business group but for
7 the fact that the foreign person's business activity
8 outside the United States is 80% or more of that
9 person's total business activity and (ii) for taxable
10 years ending on or after December 31, 2008, to a person
11 who would be a member of the same unitary business
12 group but for the fact that the person is prohibited
13 under Section 1501(a)(27) from being included in the
14 unitary business group because he or she is ordinarily
15 required to apportion business income under different
16 subsections of Section 304, but not to exceed the
17 addition modification required to be made for the same
18 taxable year under Section 203(a)(2)(D-17) for
19 interest paid, accrued, or incurred, directly or
20 indirectly, to the same person. This subparagraph (DD)
21 is exempt from the provisions of Section 250;

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

1 the fact that the foreign person's business activity
2 outside the United States is 80% or more of that
3 person's total business activity and (ii) for taxable
4 years ending on or after December 31, 2008, to a person
5 who would be a member of the same unitary business
6 group but for the fact that the person is prohibited
7 under Section 1501(a)(27) from being included in the
8 unitary business group because he or she is ordinarily
9 required to apportion business income under different
10 subsections of Section 304, but not to exceed the
11 addition modification required to be made for the same
12 taxable year under Section 203(a)(2)(D-18) for
13 intangible expenses and costs paid, accrued, or
14 incurred, directly or indirectly, to the same foreign
15 person. This subparagraph (EE) is exempt from the
16 provisions of Section 250;

17 (FF) An amount equal to any amount awarded to the
18 taxpayer during the taxable year by the Comptroller
19 under the Compensation for Wrongfully Imprisoned
20 Persons Act ~~Court of Claims under subsection (c) of~~
21 ~~Section 8 of the Court of Claims Act~~ for time unjustly
22 served in a State prison. This subparagraph (FF) is
23 exempt from the provisions of Section 250; and

24 (GG) For taxable years ending on or after December
25 31, 2011, in the case of a taxpayer who was required to
26 add back any insurance premiums under Section

1 203(a)(2)(D-19), such taxpayer may elect to subtract
2 that part of a reimbursement received from the
3 insurance company equal to the amount of the expense or
4 loss (including expenses incurred by the insurance
5 company) that would have been taken into account as a
6 deduction for federal income tax purposes if the
7 expense or loss had been uninsured. If a taxpayer makes
8 the election provided for by this subparagraph (GG),
9 the insurer to which the premiums were paid must add
10 back to income the amount subtracted by the taxpayer
11 pursuant to this subparagraph (GG). This subparagraph
12 (GG) is exempt from the provisions of Section 250.

13 (b) Corporations.

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

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

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

25 (B) An amount equal to the amount of tax imposed by

1 this Act to the extent deducted from gross income in
2 the computation of taxable income for the taxable year;

3 (C) In the case of a regulated investment company,
4 an amount equal to the excess of (i) the net long-term
5 capital gain for the taxable year, over (ii) the amount
6 of the capital gain dividends designated as such in
7 accordance with Section 852(b)(3)(C) of the Internal
8 Revenue Code and any amount designated under Section
9 852(b)(3)(D) of the Internal Revenue Code,
10 attributable to the taxable year (this amendatory Act
11 of 1995 (Public Act 89-89) is declarative of existing
12 law and is not a new enactment);

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

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

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

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

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

21 (E-5) For taxable years ending after December 31,
22 1997, an amount equal to any eligible remediation costs
23 that the corporation deducted in computing adjusted
24 gross income and for which the corporation claims a
25 credit under subsection (1) of Section 201;

26 (E-10) For taxable years 2001 and thereafter, an

1 amount equal to the bonus depreciation deduction taken
2 on the taxpayer's federal income tax return for the
3 taxable year under subsection (k) of Section 168 of the
4 Internal Revenue Code;

5 (E-11) If the taxpayer sells, transfers, abandons,
6 or otherwise disposes of property for which the
7 taxpayer was required in any taxable year to make an
8 addition modification under subparagraph (E-10), then
9 an amount equal to the aggregate amount of the
10 deductions taken in all taxable years under
11 subparagraph (T) with respect to that property.

12 If the taxpayer continues to own property through
13 the last day of the last tax year for which the
14 taxpayer may claim a depreciation deduction for
15 federal income tax purposes and for which the taxpayer
16 was allowed in any taxable year to make a subtraction
17 modification under subparagraph (T), then an amount
18 equal to that subtraction modification.

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

22 (E-12) An amount equal to the amount otherwise
23 allowed as a deduction in computing base income for
24 interest paid, accrued, or incurred, directly or
25 indirectly, (i) for taxable years ending on or after
26 December 31, 2004, to a foreign person who would be a

1 member of the same unitary business group but for the
2 fact the foreign person's business activity outside
3 the United States is 80% or more of the foreign
4 person's total business activity and (ii) for taxable
5 years ending on or after December 31, 2008, to a person
6 who would be a member of the same unitary business
7 group but for the fact that the person is prohibited
8 under Section 1501(a)(27) from being included in the
9 unitary business group because he or she is ordinarily
10 required to apportion business income under different
11 subsections of Section 304. The addition modification
12 required by this subparagraph shall be reduced to the
13 extent that dividends were included in base income of
14 the unitary group for the same taxable year and
15 received by the taxpayer or by a member of the
16 taxpayer's unitary business group (including amounts
17 included in gross income pursuant to Sections 951
18 through 964 of the Internal Revenue Code and amounts
19 included in gross income under Section 78 of the
20 Internal Revenue Code) with respect to the stock of the
21 same person to whom the interest was paid, accrued, or
22 incurred.

23 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

15 (E-13) An amount equal to the amount of intangible
16 expenses and costs otherwise allowed as a deduction in
17 computing base income, and that were paid, accrued, or
18 incurred, directly or indirectly, (i) for taxable
19 years ending on or after December 31, 2004, to a
20 foreign person who would be a member of the same
21 unitary business group but for the fact that the
22 foreign person's business activity outside the United
23 States is 80% or more of that person's total business
24 activity and (ii) for taxable years ending on or after
25 December 31, 2008, to a person who would be a member of
26 the same unitary business group but for the fact that

1 the person is prohibited under Section 1501(a)(27)
2 from being included in the unitary business group
3 because he or she is ordinarily required to apportion
4 business income under different subsections of Section
5 304. The addition modification required by this
6 subparagraph shall be reduced to the extent that
7 dividends were included in base income of the unitary
8 group for the same taxable year and received by the
9 taxpayer or by a member of the taxpayer's unitary
10 business group (including amounts included in gross
11 income pursuant to Sections 951 through 964 of the
12 Internal Revenue Code and amounts included in gross
13 income under Section 78 of the Internal Revenue Code)
14 with respect to the stock of the same person to whom
15 the intangible expenses and costs were directly or
16 indirectly paid, incurred, or accrued. The preceding
17 sentence shall not apply to the extent that the same
18 dividends caused a reduction to the addition
19 modification required under Section 203(b)(2)(E-12) of
20 this Act. As used in this subparagraph, the term
21 "intangible expenses and costs" includes (1) expenses,
22 losses, and costs for, or related to, the direct or
23 indirect acquisition, use, maintenance or management,
24 ownership, sale, exchange, or any other disposition of
25 intangible property; (2) losses incurred, directly or
26 indirectly, from factoring transactions or discounting

1 transactions; (3) royalty, patent, technical, and
2 copyright fees; (4) licensing fees; and (5) other
3 similar expenses and costs. For purposes of this
4 subparagraph, "intangible property" includes patents,
5 patent applications, trade names, trademarks, service
6 marks, copyrights, mask works, trade secrets, and
7 similar types of intangible assets.

8 This paragraph shall not apply to the following:

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

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

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

25 (b) the transaction giving rise to the
26 intangible expense or cost between the

1 taxpayer and the person did not have as a
2 principal purpose the avoidance of Illinois
3 income tax, and is paid pursuant to a contract
4 or agreement that reflects arm's-length terms;
5 or

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

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

23 (E-14) For taxable years ending on or after
24 December 31, 2008, an amount equal to the amount of
25 insurance premium expenses and costs otherwise allowed
26 as a deduction in computing base income, and that were

1 paid, accrued, or incurred, directly or indirectly, to
2 a person who would be a member of the same unitary
3 business group but for the fact that the person is
4 prohibited under Section 1501(a)(27) from being
5 included in the unitary business group because he or
6 she is ordinarily required to apportion business
7 income under different subsections of Section 304. The
8 addition modification required by this subparagraph
9 shall be reduced to the extent that dividends were
10 included in base income of the unitary group for the
11 same taxable year and received by the taxpayer or by a
12 member of the taxpayer's unitary business group
13 (including amounts included in gross income under
14 Sections 951 through 964 of the Internal Revenue Code
15 and amounts included in gross income under Section 78
16 of the Internal Revenue Code) with respect to the stock
17 of the same person to whom the premiums and costs were
18 directly or indirectly paid, incurred, or accrued. The
19 preceding sentence does not apply to the extent that
20 the same dividends caused a reduction to the addition
21 modification required under Section 203(b)(2)(E-12) or
22 Section 203(b)(2)(E-13) of this Act;

23 (E-15) For taxable years beginning after December
24 31, 2008, any deduction for dividends paid by a captive
25 real estate investment trust that is allowed to a real
26 estate investment trust under Section 857(b)(2)(B) of

1 the Internal Revenue Code for dividends paid;

2 (E-16) An amount equal to the credit allowable to
3 the taxpayer under Section 218(a) of this Act,
4 determined without regard to Section 218(c) of this
5 Act;

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

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

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

13 (H) In the case of a regulated investment company,
14 an amount equal to the amount of exempt interest
15 dividends as defined in subsection (b) (5) of Section
16 852 of the Internal Revenue Code, paid to shareholders
17 for the taxable year;

18 (I) With the exception of any amounts subtracted
19 under subparagraph (J), an amount equal to the sum of
20 all amounts disallowed as deductions by (i) Sections
21 171(a) (2), and 265(a) (2) and amounts disallowed as
22 interest expense by Section 291(a) (3) of the Internal
23 Revenue Code, and all amounts of expenses allocable to
24 interest and disallowed as deductions by Section
25 265(a) (1) of the Internal Revenue Code; and (ii) for
26 taxable years ending on or after August 13, 1999,

1 Sections 171(a)(2), 265, 280C, 291(a)(3), and
2 832(b)(5)(B)(i) of the Internal Revenue Code, plus,
3 for tax years ending on or after December 31, 2011,
4 amounts disallowed as deductions by Section 45G(e)(3)
5 of the Internal Revenue Code and, for taxable years
6 ending on or after December 31, 2008, any amount
7 included in gross income under Section 87 of the
8 Internal Revenue Code and the policyholders' share of
9 tax-exempt interest of a life insurance company under
10 Section 807(a)(2)(B) of the Internal Revenue Code (in
11 the case of a life insurance company with gross income
12 from a decrease in reserves for the tax year) or
13 Section 807(b)(1)(B) of the Internal Revenue Code (in
14 the case of a life insurance company allowed a
15 deduction for an increase in reserves for the tax
16 year); the provisions of this subparagraph are exempt
17 from the provisions of Section 250;

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

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

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

18 (M) For any taxpayer that is a financial
19 organization within the meaning of Section 304(c) of
20 this Act, an amount included in such total as interest
21 income from a loan or loans made by such taxpayer to a
22 borrower, to the extent that such a loan is secured by
23 property which is eligible for the River Edge
24 Redevelopment Zone Investment Credit. To determine the
25 portion of a loan or loans that is secured by property
26 eligible for a Section 201(f) investment credit to the

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

14 (M-1) For any taxpayer that is a financial
15 organization within the meaning of Section 304(c) of
16 this Act, an amount included in such total as interest
17 income from a loan or loans made by such taxpayer to a
18 borrower, to the extent that such a loan is secured by
19 property which is eligible for the High Impact Business
20 Investment Credit. To determine the portion of a loan
21 or loans that is secured by property eligible for a
22 Section 201(h) investment credit to the borrower, the
23 entire principal amount of the loan or loans between
24 the taxpayer and the borrower should be divided into
25 the basis of the Section 201(h) investment credit
26 property which secures the loan or loans, using for

1 this purpose the original basis of such property on the
2 date that it was placed in service in a federally
3 designated Foreign Trade Zone or Sub-Zone located in
4 Illinois. No taxpayer that is eligible for the
5 deduction provided in subparagraph (M) of paragraph
6 (2) of this subsection shall be eligible for the
7 deduction provided under this subparagraph (M-1). The
8 subtraction modification available to taxpayers in any
9 year under this subsection shall be that portion of the
10 total interest paid by the borrower with respect to
11 such loan attributable to the eligible property as
12 calculated under the previous sentence;

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

24 (O) An amount equal to: (i) 85% for taxable years
25 ending on or before December 31, 1992, or, a percentage
26 equal to the percentage allowable under Section

1 243(a)(1) of the Internal Revenue Code of 1986 for
2 taxable years ending after December 31, 1992, of the
3 amount by which dividends included in taxable income
4 and received from a corporation that is not created or
5 organized under the laws of the United States or any
6 state or political subdivision thereof, including, for
7 taxable years ending on or after December 31, 1988,
8 dividends received or deemed received or paid or deemed
9 paid under Sections 951 through 965 of the Internal
10 Revenue Code, exceed the amount of the modification
11 provided under subparagraph (G) of paragraph (2) of
12 this subsection (b) which is related to such dividends,
13 and including, for taxable years ending on or after
14 December 31, 2008, dividends received from a captive
15 real estate investment trust; plus (ii) 100% of the
16 amount by which dividends, included in taxable income
17 and received, including, for taxable years ending on or
18 after December 31, 1988, dividends received or deemed
19 received or paid or deemed paid under Sections 951
20 through 964 of the Internal Revenue Code and including,
21 for taxable years ending on or after December 31, 2008,
22 dividends received from a captive real estate
23 investment trust, from any such corporation specified
24 in clause (i) that would but for the provisions of
25 Section 1504 (b) (3) of the Internal Revenue Code be
26 treated as a member of the affiliated group which

1 includes the dividend recipient, exceed the amount of
2 the modification provided under subparagraph (G) of
3 paragraph (2) of this subsection (b) which is related
4 to such dividends. This subparagraph (O) is exempt from
5 the provisions of Section 250 of this Act;

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

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

14 (R) On and after July 20, 1999, in the case of an
15 attorney-in-fact with respect to whom an interinsurer
16 or a reciprocal insurer has made the election under
17 Section 835 of the Internal Revenue Code, 26 U.S.C.
18 835, an amount equal to the excess, if any, of the
19 amounts paid or incurred by that interinsurer or
20 reciprocal insurer in the taxable year to the
21 attorney-in-fact over the deduction allowed to that
22 interinsurer or reciprocal insurer with respect to the
23 attorney-in-fact under Section 835(b) of the Internal
24 Revenue Code for the taxable year; the provisions of
25 this subparagraph are exempt from the provisions of
26 Section 250;

1 (S) For taxable years ending on or after December
2 31, 1997, in the case of a Subchapter S corporation, an
3 amount equal to all amounts of income allocable to a
4 shareholder subject to the Personal Property Tax
5 Replacement Income Tax imposed by subsections (c) and
6 (d) of Section 201 of this Act, including amounts
7 allocable to organizations exempt from federal income
8 tax by reason of Section 501(a) of the Internal Revenue
9 Code. This subparagraph (S) is exempt from the
10 provisions of Section 250;

11 (T) For taxable years 2001 and thereafter, for the
12 taxable year in which the bonus depreciation deduction
13 is taken on the taxpayer's federal income tax return
14 under subsection (k) of Section 168 of the Internal
15 Revenue Code and for each applicable taxable year
16 thereafter, an amount equal to "x", where:

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

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

1 0.429); and

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

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

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

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

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

26 If the taxpayer continues to own property through

1 the last day of the last tax year for which the
2 taxpayer may claim a depreciation deduction for
3 federal income tax purposes and for which the taxpayer
4 was required in any taxable year to make an addition
5 modification under subparagraph (E-10), then an amount
6 equal to that addition modification.

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

10 This subparagraph (U) is exempt from the
11 provisions of Section 250;

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

1 addition modification, and (iii) any insurance premium
2 income (net of deductions allocable thereto) taken
3 into account for the taxable year with respect to a
4 transaction with a taxpayer that is required to make an
5 addition modification with respect to such transaction
6 under Section 203(a)(2)(D-19), Section
7 203(b)(2)(E-14), Section 203(c)(2)(G-14), or Section
8 203(d)(2)(D-9), but not to exceed the amount of that
9 addition modification. This subparagraph (V) is exempt
10 from the provisions of Section 250;

11 (W) An amount equal to the interest income taken
12 into account for the taxable year (net of the
13 deductions allocable thereto) with respect to
14 transactions with (i) a foreign person who would be a
15 member of the taxpayer's unitary business group but for
16 the fact that the foreign person's business activity
17 outside the United States is 80% or more of that
18 person's total business activity and (ii) for taxable
19 years ending on or after December 31, 2008, to a person
20 who would be a member of the same unitary business
21 group but for the fact that the person is prohibited
22 under Section 1501(a)(27) from being included in the
23 unitary business group because he or she is ordinarily
24 required to apportion business income under different
25 subsections of Section 304, but not to exceed the
26 addition modification required to be made for the same

1 taxable year under Section 203(b)(2)(E-12) for
2 interest paid, accrued, or incurred, directly or
3 indirectly, to the same person. This subparagraph (W)
4 is exempt from the provisions of Section 250;

5 (X) An amount equal to the income from intangible
6 property taken into account for the taxable year (net
7 of the deductions allocable thereto) with respect to
8 transactions with (i) a foreign person who would be a
9 member of the taxpayer's unitary business group but for
10 the fact that the foreign person's business activity
11 outside the United States is 80% or more of that
12 person's total business activity and (ii) for taxable
13 years ending on or after December 31, 2008, to a person
14 who would be a member of the same unitary business
15 group but for the fact that the person is prohibited
16 under Section 1501(a)(27) from being included in the
17 unitary business group because he or she is ordinarily
18 required to apportion business income under different
19 subsections of Section 304, but not to exceed the
20 addition modification required to be made for the same
21 taxable year under Section 203(b)(2)(E-13) for
22 intangible expenses and costs paid, accrued, or
23 incurred, directly or indirectly, to the same foreign
24 person. This subparagraph (X) is exempt from the
25 provisions of Section 250;

26 (Y) For taxable years ending on or after December

1 31, 2011, in the case of a taxpayer who was required to
2 add back any insurance premiums under Section
3 203(b)(2)(E-14), such taxpayer may elect to subtract
4 that part of a reimbursement received from the
5 insurance company equal to the amount of the expense or
6 loss (including expenses incurred by the insurance
7 company) that would have been taken into account as a
8 deduction for federal income tax purposes if the
9 expense or loss had been uninsured. If a taxpayer makes
10 the election provided for by this subparagraph (Y), the
11 insurer to which the premiums were paid must add back
12 to income the amount subtracted by the taxpayer
13 pursuant to this subparagraph (Y). This subparagraph
14 (Y) is exempt from the provisions of Section 250; and

15 (Z) The difference between the nondeductible
16 controlled foreign corporation dividends under Section
17 965(e)(3) of the Internal Revenue Code over the taxable
18 income of the taxpayer, computed without regard to
19 Section 965(e)(2)(A) of the Internal Revenue Code, and
20 without regard to any net operating loss deduction.
21 This subparagraph (Z) is exempt from the provisions of
22 Section 250.

23 (3) Special rule. For purposes of paragraph (2) (A),
24 "gross income" in the case of a life insurance company, for
25 tax years ending on and after December 31, 1994, and prior
26 to December 31, 2011, shall mean the gross investment

1 income for the taxable year and, for tax years ending on or
2 after December 31, 2011, shall mean all amounts included in
3 life insurance gross income under Section 803(a)(3) of the
4 Internal Revenue Code.

5 (c) Trusts and estates.

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

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

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

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

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

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

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

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

23 (ii) the addition modification relating to the
24 net operating loss carried back or forward to the
25 taxable year from any taxable year ending prior to
26 December 31, 1986 shall not exceed the amount of

1 such carryback or carryforward;

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

9 (F) For taxable years ending on or after January 1,
10 1989, an amount equal to the tax deducted pursuant to
11 Section 164 of the Internal Revenue Code if the trust
12 or estate is claiming the same tax for purposes of the
13 Illinois foreign tax credit under Section 601 of this
14 Act;

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

19 (G-5) For taxable years ending after December 31,
20 1997, an amount equal to any eligible remediation costs
21 that the trust or estate deducted in computing adjusted
22 gross income and for which the trust or estate claims a
23 credit under subsection (1) of Section 201;

24 (G-10) For taxable years 2001 and thereafter, an
25 amount equal to the bonus depreciation deduction taken
26 on the taxpayer's federal income tax return for the

1 taxable year under subsection (k) of Section 168 of the
2 Internal Revenue Code; and

3 (G-11) If the taxpayer sells, transfers, abandons,
4 or otherwise disposes of property for which the
5 taxpayer was required in any taxable year to make an
6 addition modification under subparagraph (G-10), then
7 an amount equal to the aggregate amount of the
8 deductions taken in all taxable years under
9 subparagraph (R) with respect to that property.

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

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

20 (G-12) An amount equal to the amount otherwise
21 allowed as a deduction in computing base income for
22 interest paid, accrued, or incurred, directly or
23 indirectly, (i) for taxable years ending on or after
24 December 31, 2004, to a foreign person who would be a
25 member of the same unitary business group but for the
26 fact that the foreign person's business activity

1 outside the United States is 80% or more of the foreign
2 person's total business activity and (ii) for taxable
3 years ending on or after December 31, 2008, to a person
4 who would be a member of the same unitary business
5 group but for the fact that the person is prohibited
6 under Section 1501(a)(27) from being included in the
7 unitary business group because he or she is ordinarily
8 required to apportion business income under different
9 subsections of Section 304. The addition modification
10 required by this subparagraph shall be reduced to the
11 extent that dividends were included in base income of
12 the unitary group for the same taxable year and
13 received by the taxpayer or by a member of the
14 taxpayer's unitary business group (including amounts
15 included in gross income pursuant to Sections 951
16 through 964 of the Internal Revenue Code and amounts
17 included in gross income under Section 78 of the
18 Internal Revenue Code) with respect to the stock of the
19 same person to whom the interest was paid, accrued, or
20 incurred.

21 This paragraph shall not apply to the following:

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

1 with respect to such interest; or

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

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

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

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

23 (iv) an item of interest paid, accrued, or
24 incurred, directly or indirectly, to a person if
25 the taxpayer establishes by clear and convincing
26 evidence that the adjustments are unreasonable; or

1 if the taxpayer and the Director agree in writing
2 to the application or use of an alternative method
3 of apportionment under Section 304(f).

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

13 (G-13) An amount equal to the amount of intangible
14 expenses and costs otherwise allowed as a deduction in
15 computing base income, and that were paid, accrued, or
16 incurred, directly or indirectly, (i) for taxable
17 years ending on or after December 31, 2004, to a
18 foreign person who would be a member of the same
19 unitary business group but for the fact that the
20 foreign person's business activity outside the United
21 States is 80% or more of that person's total business
22 activity and (ii) for taxable years ending on or after
23 December 31, 2008, to a person who would be a member of
24 the same unitary business group but for the fact that
25 the person is prohibited under Section 1501(a)(27)
26 from being included in the unitary business group

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

1 fees; and (5) other similar expenses and costs. For
2 purposes of this subparagraph, "intangible property"
3 includes patents, patent applications, trade names,
4 trademarks, service marks, copyrights, mask works,
5 trade secrets, and similar types of intangible assets.

6 This paragraph shall not apply to the following:

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

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

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

23 (b) the transaction giving rise to the
24 intangible expense or cost between the
25 taxpayer and the person did not have as a
26 principal purpose the avoidance of Illinois

1 income tax, and is paid pursuant to a contract
2 or agreement that reflects arm's-length terms;
3 or

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

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

21 (G-14) For taxable years ending on or after
22 December 31, 2008, an amount equal to the amount of
23 insurance premium expenses and costs otherwise allowed
24 as a deduction in computing base income, and that were
25 paid, accrued, or incurred, directly or indirectly, to
26 a person who would be a member of the same unitary

1 business group but for the fact that the person is
2 prohibited under Section 1501(a)(27) from being
3 included in the unitary business group because he or
4 she is ordinarily required to apportion business
5 income under different subsections of Section 304. The
6 addition modification required by this subparagraph
7 shall be reduced to the extent that dividends were
8 included in base income of the unitary group for the
9 same taxable year and received by the taxpayer or by a
10 member of the taxpayer's unitary business group
11 (including amounts included in gross income under
12 Sections 951 through 964 of the Internal Revenue Code
13 and amounts included in gross income under Section 78
14 of the Internal Revenue Code) with respect to the stock
15 of the same person to whom the premiums and costs were
16 directly or indirectly paid, incurred, or accrued. The
17 preceding sentence does not apply to the extent that
18 the same dividends caused a reduction to the addition
19 modification required under Section 203(c)(2)(G-12) or
20 Section 203(c)(2)(G-13) of this Act;

21 (G-15) An amount equal to the credit allowable to
22 the taxpayer under Section 218(a) of this Act,
23 determined without regard to Section 218(c) of this
24 Act;

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

1 (H) An amount equal to all amounts included in such
2 total pursuant to the provisions of Sections 402(a),
3 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the
4 Internal Revenue Code or included in such total as
5 distributions under the provisions of any retirement
6 or disability plan for employees of any governmental
7 agency or unit, or retirement payments to retired
8 partners, which payments are excluded in computing net
9 earnings from self employment by Section 1402 of the
10 Internal Revenue Code and regulations adopted pursuant
11 thereto;

12 (I) The valuation limitation amount;

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

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

1 (L) With the exception of any amounts subtracted
2 under subparagraph (K), an amount equal to the sum of
3 all amounts disallowed as deductions by (i) Sections
4 171(a) (2) and 265(a) (2) of the Internal Revenue Code,
5 and all amounts of expenses allocable to interest and
6 disallowed as deductions by Section 265(1) of the
7 Internal Revenue Code; and (ii) for taxable years
8 ending on or after August 13, 1999, Sections 171(a) (2),
9 265, 280C, and 832(b) (5) (B) (i) of the Internal Revenue
10 Code, plus, (iii) for taxable years ending on or after
11 December 31, 2011, Section 45G(e) (3) of the Internal
12 Revenue Code and, for taxable years ending on or after
13 December 31, 2008, any amount included in gross income
14 under Section 87 of the Internal Revenue Code; the
15 provisions of this subparagraph are exempt from the
16 provisions of Section 250;

17 (M) An amount equal to those dividends included in
18 such total which were paid by a corporation which
19 conducts business operations in a River Edge
20 Redevelopment Zone or zones created under the River
21 Edge Redevelopment Zone Act and conducts substantially
22 all of its operations in a River Edge Redevelopment
23 Zone or zones. This subparagraph (M) is exempt from the
24 provisions of Section 250;

25 (N) An amount equal to any contribution made to a
26 job training project established pursuant to the Tax

1 Increment Allocation Redevelopment Act;

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

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

16 (Q) For taxable year 1999 and thereafter, an amount
17 equal to the amount of any (i) distributions, to the
18 extent includible in gross income for federal income
19 tax purposes, made to the taxpayer because of his or
20 her status as a victim of persecution for racial or
21 religious reasons by Nazi Germany or any other Axis
22 regime or as an heir of the victim and (ii) items of
23 income, to the extent includible in gross income for
24 federal income tax purposes, attributable to, derived
25 from or in any way related to assets stolen from,
26 hidden from, or otherwise lost to a victim of

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

23 (R) For taxable years 2001 and thereafter, for the
24 taxable year in which the bonus depreciation deduction
25 is taken on the taxpayer's federal income tax return
26 under subsection (k) of Section 168 of the Internal

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

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

10 (2) for taxable years ending on or before
11 December 31, 2005, "x" equals "y" multiplied by 30
12 and then divided by 70 (or "y" multiplied by
13 0.429); and

14 (3) for taxable years ending after December
15 31, 2005:

16 (i) for property on which a bonus
17 depreciation deduction of 30% of the adjusted
18 basis was taken, "x" equals "y" multiplied by
19 30 and then divided by 70 (or "y" multiplied by
20 0.429); and

21 (ii) for property on which a bonus
22 depreciation deduction of 50% of the adjusted
23 basis was taken, "x" equals "y" multiplied by
24 1.0.

25 The aggregate amount deducted under this
26 subparagraph in all taxable years for any one piece of

1 property may not exceed the amount of the bonus
2 depreciation deduction taken on that property on the
3 taxpayer's federal income tax return under subsection
4 (k) of Section 168 of the Internal Revenue Code. This
5 subparagraph (R) is exempt from the provisions of
6 Section 250;

7 (S) If the taxpayer sells, transfers, abandons, or
8 otherwise disposes of property for which the taxpayer
9 was required in any taxable year to make an addition
10 modification under subparagraph (G-10), then an amount
11 equal to that addition modification.

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

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

22 This subparagraph (S) is exempt from the
23 provisions of Section 250;

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

1 a taxpayer that is required to make an addition
2 modification with respect to such transaction under
3 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
4 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
5 the amount of such addition modification and (ii) any
6 income from intangible property (net of the deductions
7 allocable thereto) taken into account for the taxable
8 year with respect to a transaction with a taxpayer that
9 is required to make an addition modification with
10 respect to such transaction under Section
11 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
12 203(d)(2)(D-8), but not to exceed the amount of such
13 addition modification. This subparagraph (T) is exempt
14 from the provisions of Section 250;

15 (U) An amount equal to the interest income taken
16 into account for the taxable year (net of the
17 deductions allocable thereto) with respect to
18 transactions with (i) a foreign person who would be a
19 member of the taxpayer's unitary business group but for
20 the fact the foreign person's business activity
21 outside the United States is 80% or more of that
22 person's total business activity and (ii) for taxable
23 years ending on or after December 31, 2008, to a person
24 who would be a member of the same unitary business
25 group but for the fact that the person is prohibited
26 under Section 1501(a)(27) from being included in the

1 unitary business group because he or she is ordinarily
2 required to apportion business income under different
3 subsections of Section 304, but not to exceed the
4 addition modification required to be made for the same
5 taxable year under Section 203(c)(2)(G-12) for
6 interest paid, accrued, or incurred, directly or
7 indirectly, to the same person. This subparagraph (U)
8 is exempt from the provisions of Section 250;

9 (V) An amount equal to the income from intangible
10 property taken into account for the taxable year (net
11 of the deductions allocable thereto) with respect to
12 transactions with (i) a foreign person who would be a
13 member of the taxpayer's unitary business group but for
14 the fact that the foreign person's business activity
15 outside the United States is 80% or more of that
16 person's total business activity and (ii) for taxable
17 years ending on or after December 31, 2008, to a person
18 who would be a member of the same unitary business
19 group but for the fact that the person is prohibited
20 under Section 1501(a)(27) from being included in the
21 unitary business group because he or she is ordinarily
22 required to apportion business income under different
23 subsections of Section 304, but not to exceed the
24 addition modification required to be made for the same
25 taxable year under Section 203(c)(2)(G-13) for
26 intangible expenses and costs paid, accrued, or

1 incurred, directly or indirectly, to the same foreign
2 person. This subparagraph (V) is exempt from the
3 provisions of Section 250;

4 (W) in the case of an estate, an amount equal to
5 all amounts included in such total pursuant to the
6 provisions of Section 111 of the Internal Revenue Code
7 as a recovery of items previously deducted by the
8 decedent from adjusted gross income in the computation
9 of taxable income. This subparagraph (W) is exempt from
10 Section 250;

11 (X) an amount equal to the refund included in such
12 total of any tax deducted for federal income tax
13 purposes, to the extent that deduction was added back
14 under subparagraph (F). This subparagraph (X) is
15 exempt from the provisions of Section 250; and

16 (Y) For taxable years ending on or after December
17 31, 2011, in the case of a taxpayer who was required to
18 add back any insurance premiums under Section
19 203(c)(2)(G-14), such taxpayer may elect to subtract
20 that part of a reimbursement received from the
21 insurance company equal to the amount of the expense or
22 loss (including expenses incurred by the insurance
23 company) that would have been taken into account as a
24 deduction for federal income tax purposes if the
25 expense or loss had been uninsured. If a taxpayer makes
26 the election provided for by this subparagraph (Y), the

1 insurer to which the premiums were paid must add back
2 to income the amount subtracted by the taxpayer
3 pursuant to this subparagraph (Y). This subparagraph
4 (Y) is exempt from the provisions of Section 250.

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

12 (d) Partnerships.

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

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

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

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

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

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

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

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

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

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

4 (D-7) An amount equal to the amount otherwise
5 allowed as a deduction in computing base income for
6 interest paid, accrued, or incurred, directly or
7 indirectly, (i) for taxable years ending on or after
8 December 31, 2004, to a foreign person who would be a
9 member of the same unitary business group but for the
10 fact the foreign person's business activity outside
11 the United States is 80% or more of the foreign
12 person's total business activity and (ii) for taxable
13 years ending on or after December 31, 2008, to a person
14 who would be a member of the same unitary business
15 group but for the fact that the person is prohibited
16 under Section 1501(a)(27) from being included in the
17 unitary business group because he or she is ordinarily
18 required to apportion business income under different
19 subsections of Section 304. The addition modification
20 required by this subparagraph shall be reduced to the
21 extent that dividends were included in base income of
22 the unitary group for the same taxable year and
23 received by the taxpayer or by a member of the
24 taxpayer's unitary business group (including amounts
25 included in gross income pursuant to Sections 951
26 through 964 of the Internal Revenue Code and amounts

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

5 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

23 (D-8) An amount equal to the amount of intangible
24 expenses and costs otherwise allowed as a deduction in
25 computing base income, and that were paid, accrued, or
26 incurred, directly or indirectly, (i) for taxable

1 years ending on or after December 31, 2004, to a
2 foreign person who would be a member of the same
3 unitary business group but for the fact that the
4 foreign person's business activity outside the United
5 States is 80% or more of that person's total business
6 activity and (ii) for taxable years ending on or after
7 December 31, 2008, to a person who would be a member of
8 the same unitary business group but for the fact that
9 the person is prohibited under Section 1501(a)(27)
10 from being included in the unitary business group
11 because he or she is ordinarily required to apportion
12 business income under different subsections of Section
13 304. The addition modification required by this
14 subparagraph shall be reduced to the extent that
15 dividends were included in base income of the unitary
16 group for the same taxable year and received by the
17 taxpayer or by a member of the taxpayer's unitary
18 business group (including amounts included in gross
19 income pursuant to Sections 951 through 964 of the
20 Internal Revenue Code and amounts included in gross
21 income under Section 78 of the Internal Revenue Code)
22 with respect to the stock of the same person to whom
23 the intangible expenses and costs were directly or
24 indirectly paid, incurred or accrued. The preceding
25 sentence shall not apply to the extent that the same
26 dividends caused a reduction to the addition

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

16 This paragraph shall not apply to the following:

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

24 (ii) any item of intangible expense or cost
25 paid, accrued, or incurred, directly or
26 indirectly, if the taxpayer can establish, based

1 on a preponderance of the evidence, both of the
2 following:

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

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

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

22 Nothing in this subsection shall preclude the
23 Director from making any other adjustment
24 otherwise allowed under Section 404 of this Act for
25 any tax year beginning after the effective date of
26 this amendment provided such adjustment is made

1 pursuant to regulation adopted by the Department
2 and such regulations provide methods and standards
3 by which the Department will utilize its authority
4 under Section 404 of this Act;

5 (D-9) For taxable years ending on or after December
6 31, 2008, an amount equal to the amount of insurance
7 premium expenses and costs otherwise allowed as a
8 deduction in computing base income, and that were paid,
9 accrued, or incurred, directly or indirectly, to a
10 person who would be a member of the same unitary
11 business group but for the fact that the person is
12 prohibited under Section 1501(a)(27) from being
13 included in the unitary business group because he or
14 she is ordinarily required to apportion business
15 income under different subsections of Section 304. The
16 addition modification required by this subparagraph
17 shall be reduced to the extent that dividends were
18 included in base income of the unitary group for the
19 same taxable year and received by the taxpayer or by a
20 member of the taxpayer's unitary business group
21 (including amounts included in gross income under
22 Sections 951 through 964 of the Internal Revenue Code
23 and amounts included in gross income under Section 78
24 of the Internal Revenue Code) with respect to the stock
25 of the same person to whom the premiums and costs were
26 directly or indirectly paid, incurred, or accrued. The

1 preceding sentence does not apply to the extent that
2 the same dividends caused a reduction to the addition
3 modification required under Section 203(d) (2) (D-7) or
4 Section 203(d) (2) (D-8) of this Act;

5 (D-10) An amount equal to the credit allowable to
6 the taxpayer under Section 218(a) of this Act,
7 determined without regard to Section 218(c) of this
8 Act;

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

11 (E) The valuation limitation amount;

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

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

25 (H) Any income of the partnership which
26 constitutes personal service income as defined in

1 Section 1348 (b) (1) of the Internal Revenue Code (as
2 in effect December 31, 1981) or a reasonable allowance
3 for compensation paid or accrued for services rendered
4 by partners to the partnership, whichever is greater;
5 this subparagraph (H) is exempt from the provisions of
6 Section 250;

7 (I) An amount equal to all amounts of income
8 distributable to an entity subject to the Personal
9 Property Tax Replacement Income Tax imposed by
10 subsections (c) and (d) of Section 201 of this Act
11 including amounts distributable to organizations
12 exempt from federal income tax by reason of Section
13 501(a) of the Internal Revenue Code; this subparagraph
14 (I) is exempt from the provisions of Section 250;

15 (J) With the exception of any amounts subtracted
16 under subparagraph (G), an amount equal to the sum of
17 all amounts disallowed as deductions by (i) Sections
18 171(a) (2), and 265(2) of the Internal Revenue Code,
19 and all amounts of expenses allocable to interest and
20 disallowed as deductions by Section 265(1) of the
21 Internal Revenue Code; and (ii) for taxable years
22 ending on or after August 13, 1999, Sections 171(a) (2),
23 265, 280C, and 832(b) (5) (B) (i) of the Internal Revenue
24 Code, plus, (iii) for taxable years ending on or after
25 December 31, 2011, Section 45G(e) (3) of the Internal
26 Revenue Code and, for taxable years ending on or after

1 December 31, 2008, any amount included in gross income
2 under Section 87 of the Internal Revenue Code; the
3 provisions of this subparagraph are exempt from the
4 provisions of Section 250;

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

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

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

25 (N) An amount equal to the amount of the deduction
26 used to compute the federal income tax credit for

1 restoration of substantial amounts held under claim of
2 right for the taxable year pursuant to Section 1341 of
3 the Internal Revenue Code;

4 (O) For taxable years 2001 and thereafter, for the
5 taxable year in which the bonus depreciation deduction
6 is taken on the taxpayer's federal income tax return
7 under subsection (k) of Section 168 of the Internal
8 Revenue Code and for each applicable taxable year
9 thereafter, an amount equal to "x", where:

10 (1) "y" equals the amount of the depreciation
11 deduction taken for the taxable year on the
12 taxpayer's federal income tax return on property
13 for which the bonus depreciation deduction was
14 taken in any year under subsection (k) of Section
15 168 of the Internal Revenue Code, but not including
16 the bonus depreciation deduction;

17 (2) for taxable years ending on or before
18 December 31, 2005, "x" equals "y" multiplied by 30
19 and then divided by 70 (or "y" multiplied by
20 0.429); and

21 (3) for taxable years ending after December
22 31, 2005:

23 (i) for property on which a bonus
24 depreciation deduction of 30% of the adjusted
25 basis was taken, "x" equals "y" multiplied by
26 30 and then divided by 70 (or "y" multiplied by

1 0.429); and

2 (ii) for property on which a bonus
3 depreciation deduction of 50% of the adjusted
4 basis was taken, "x" equals "y" multiplied by
5 1.0.

6 The aggregate amount deducted under this
7 subparagraph in all taxable years for any one piece of
8 property may not exceed the amount of the bonus
9 depreciation deduction taken on that property on the
10 taxpayer's federal income tax return under subsection
11 (k) of Section 168 of the Internal Revenue Code. This
12 subparagraph (O) is exempt from the provisions of
13 Section 250;

14 (P) If the taxpayer sells, transfers, abandons, or
15 otherwise disposes of property for which the taxpayer
16 was required in any taxable year to make an addition
17 modification under subparagraph (D-5), then an amount
18 equal to that addition modification.

19 If the taxpayer continues to own property through
20 the last day of the last tax year for which the
21 taxpayer may claim a depreciation deduction for
22 federal income tax purposes and for which the taxpayer
23 was required in any taxable year to make an addition
24 modification under subparagraph (D-5), then an amount
25 equal to that addition modification.

26 The taxpayer is allowed to take the deduction under

1 this subparagraph only once with respect to any one
2 piece of property.

3 This subparagraph (P) is exempt from the
4 provisions of Section 250;

5 (Q) The amount of (i) any interest income (net of
6 the deductions allocable thereto) taken into account
7 for the taxable year with respect to a transaction with
8 a taxpayer that is required to make an addition
9 modification with respect to such transaction under
10 Section 203(a) (2) (D-17), 203(b) (2) (E-12),
11 203(c) (2) (G-12), or 203(d) (2) (D-7), but not to exceed
12 the amount of such addition modification and (ii) any
13 income from intangible property (net of the deductions
14 allocable thereto) taken into account for the taxable
15 year with respect to a transaction with a taxpayer that
16 is required to make an addition modification with
17 respect to such transaction under Section
18 203(a) (2) (D-18), 203(b) (2) (E-13), 203(c) (2) (G-13), or
19 203(d) (2) (D-8), but not to exceed the amount of such
20 addition modification. This subparagraph (Q) is exempt
21 from Section 250;

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

1 the fact that the foreign person's business activity
2 outside the United States is 80% or more of that
3 person's total business activity and (ii) for taxable
4 years ending on or after December 31, 2008, to a person
5 who would be a member of the same unitary business
6 group but for the fact that the person is prohibited
7 under Section 1501(a)(27) from being included in the
8 unitary business group because he or she is ordinarily
9 required to apportion business income under different
10 subsections of Section 304, but not to exceed the
11 addition modification required to be made for the same
12 taxable year under Section 203(d)(2)(D-7) for interest
13 paid, accrued, or incurred, directly or indirectly, to
14 the same person. This subparagraph (R) is exempt from
15 Section 250;

16 (S) An amount equal to the income from intangible
17 property taken into account for the taxable year (net
18 of the deductions allocable thereto) with respect to
19 transactions with (i) a foreign person who would be a
20 member of the taxpayer's unitary business group but for
21 the fact that the foreign person's business activity
22 outside the United States is 80% or more of that
23 person's total business activity and (ii) for taxable
24 years ending on or after December 31, 2008, to a person
25 who would be a member of the same unitary business
26 group but for the fact that the person is prohibited

1 under Section 1501(a)(27) from being included in the
2 unitary business group because he or she is ordinarily
3 required to apportion business income under different
4 subsections of Section 304, but not to exceed the
5 addition modification required to be made for the same
6 taxable year under Section 203(d)(2)(D-8) for
7 intangible expenses and costs paid, accrued, or
8 incurred, directly or indirectly, to the same person.
9 This subparagraph (S) is exempt from Section 250; and

10 (T) For taxable years ending on or after December
11 31, 2011, in the case of a taxpayer who was required to
12 add back any insurance premiums under Section
13 203(d)(2)(D-9), such taxpayer may elect to subtract
14 that part of a reimbursement received from the
15 insurance company equal to the amount of the expense or
16 loss (including expenses incurred by the insurance
17 company) that would have been taken into account as a
18 deduction for federal income tax purposes if the
19 expense or loss had been uninsured. If a taxpayer makes
20 the election provided for by this subparagraph (T), the
21 insurer to which the premiums were paid must add back
22 to income the amount subtracted by the taxpayer
23 pursuant to this subparagraph (T). This subparagraph
24 (T) is exempt from the provisions of Section 250.

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

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

1 subparagraphs for any other taxable year to which the
2 taxable income less than zero (net operating loss) is
3 applied under Section 172 of the Internal Revenue Code or
4 under subparagraph (E) of paragraph (2) of this subsection
5 (e) applied in conjunction with Section 172 of the Internal
6 Revenue Code.

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

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

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

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

25 (D) Real estate investment trusts. In the case of a
26 real estate investment trust subject to the tax imposed

1 by Section 857 of the Internal Revenue Code, real
2 estate investment trust taxable income;

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

15 (F) Cooperatives. In the case of a cooperative
16 corporation or association, the taxable income of such
17 organization determined in accordance with the
18 provisions of Section 1381 through 1388 of the Internal
19 Revenue Code, but without regard to the prohibition
20 against offsetting losses from patronage activities
21 against income from nonpatronage activities; except
22 that a cooperative corporation or association may make
23 an election to follow its federal income tax treatment
24 of patronage losses and nonpatronage losses. In the
25 event such election is made, such losses shall be
26 computed and carried over in a manner consistent with

1 subsection (a) of Section 207 of this Act and
2 apportioned by the apportionment factor reported by
3 the cooperative on its Illinois income tax return filed
4 for the taxable year in which the losses are incurred.
5 The election shall be effective for all taxable years
6 with original returns due on or after the date of the
7 election. In addition, the cooperative may file an
8 amended return or returns, as allowed under this Act,
9 to provide that the election shall be effective for
10 losses incurred or carried forward for taxable years
11 occurring prior to the date of the election. Once made,
12 the election may only be revoked upon approval of the
13 Director. The Department shall adopt rules setting
14 forth requirements for documenting the elections and
15 any resulting Illinois net loss and the standards to be
16 used by the Director in evaluating requests to revoke
17 elections. Public Act 96-932 is declaratory of
18 existing law;

19 (G) Subchapter S corporations. In the case of: (i)
20 a Subchapter S corporation for which there is in effect
21 an election for the taxable year under Section 1362 of
22 the Internal Revenue Code, the taxable income of such
23 corporation determined in accordance with Section
24 1363(b) of the Internal Revenue Code, except that
25 taxable income shall take into account those items
26 which are required by Section 1363(b)(1) of the

1 Internal Revenue Code to be separately stated; and (ii)
2 a Subchapter S corporation for which there is in effect
3 a federal election to opt out of the provisions of the
4 Subchapter S Revision Act of 1982 and have applied
5 instead the prior federal Subchapter S rules as in
6 effect on July 1, 1982, the taxable income of such
7 corporation determined in accordance with the federal
8 Subchapter S rules as in effect on July 1, 1982; and

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

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

1 using the greater of the apportionment fraction computed
2 for the business under Section 304 of this Act for the
3 taxable year or the average of the apportionment fractions
4 computed for the business under Section 304 of this Act for
5 the taxable year and for the 2 immediately preceding
6 taxable years.

7 (f) Valuation limitation amount.

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

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

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

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

25 (A) If the fair market value of property referred

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

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

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

25 (g) Double deductions. Unless specifically provided

1 otherwise, nothing in this Section shall permit the same item
2 to be deducted more than once.

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

12 (Source: P.A. 96-45, eff. 7-15-09; 96-120, eff. 8-4-09; 96-198,
13 eff. 8-10-09; 96-328, eff. 8-11-09; 96-520, eff. 8-14-09;
14 96-835, eff. 12-16-09; 96-932, eff. 1-1-11; 96-935, eff.
15 6-21-10; 96-1214, eff. 7-22-10; 97-333, eff. 8-12-11; 97-507,
16 eff. 8-23-11; 97-905, eff. 8-7-12.)

17 Section 25-10. The Court of Claims Act is amended by
18 changing Sections 8, 11, 22, and 24 as follows:

19 (705 ILCS 505/8) (from Ch. 37, par. 439.8)

20 Sec. 8. Court of Claims jurisdiction; deliberation
21 periods. The court shall have exclusive jurisdiction to hear
22 and determine the following matters:

23 (a) All claims against the State founded upon any law of

1 the State of Illinois or upon any regulation adopted thereunder
2 by an executive or administrative officer or agency; provided,
3 however, the court shall not have jurisdiction (i) to hear or
4 determine claims arising under the Workers' Compensation Act or
5 the Workers' Occupational Diseases Act, or claims for expenses
6 in civil litigation, or (ii) to review administrative decisions
7 for which a statute provides that review shall be in the
8 circuit or appellate court.

9 (b) All claims against the State founded upon any contract
10 entered into with the State of Illinois.

11 (c) (Blank). ~~All claims against the State for time unjustly~~
12 ~~served in prisons of this State when the person imprisoned~~
13 ~~received a pardon from the governor stating that such pardon is~~
14 ~~issued on the ground of innocence of the crime for which he or~~
15 ~~she was imprisoned or he or she received a certificate of~~
16 ~~innocence from the Circuit Court as provided in Section 2-702~~
17 ~~of the Code of Civil Procedure; provided, the amount of the~~
18 ~~award is at the discretion of the court; and provided, the~~
19 ~~court shall make no award in excess of the following amounts:~~
20 ~~for imprisonment of 5 years or less, not more than \$85,350; for~~
21 ~~imprisonment of 14 years or less but over 5 years, not more~~
22 ~~than \$170,000; for imprisonment of over 14 years, not more than~~
23 ~~\$199,150; and provided further, the court shall fix attorney's~~
24 ~~fees not to exceed 25% of the award granted. On or after the~~
25 ~~effective date of this amendatory Act of the 95th General~~
26 ~~Assembly, the court shall annually adjust the maximum awards~~

1 ~~authorized by this subsection (c) to reflect the increase, if~~
2 ~~any, in the Consumer Price Index For All Urban Consumers for~~
3 ~~the previous calendar year, as determined by the United States~~
4 ~~Department of Labor, except that no annual increment may exceed~~
5 ~~5%. For the annual adjustments, if the Consumer Price Index~~
6 ~~decreases during a calendar year, there shall be no adjustment~~
7 ~~for that calendar year. The transmission by the Prisoner Review~~
8 ~~Board or the clerk of the circuit court of the information~~
9 ~~described in Section 11(b) to the clerk of the Court of Claims~~
10 ~~is conclusive evidence of the validity of the claim. The~~
11 ~~changes made by this amendatory Act of the 95th General~~
12 ~~Assembly apply to all claims pending on or filed on or after~~
13 ~~the effective date.~~

14 (d) All claims against the State for damages in cases
15 sounding in tort, if a like cause of action would lie against a
16 private person or corporation in a civil suit, and all like
17 claims sounding in tort against the Medical Center Commission,
18 the Board of Trustees of the University of Illinois, the Board
19 of Trustees of Southern Illinois University, the Board of
20 Trustees of Chicago State University, the Board of Trustees of
21 Eastern Illinois University, the Board of Trustees of Governors
22 State University, the Board of Trustees of Illinois State
23 University, the Board of Trustees of Northeastern Illinois
24 University, the Board of Trustees of Northern Illinois
25 University, the Board of Trustees of Western Illinois
26 University, or the Board of Trustees of the Illinois

1 Mathematics and Science Academy; provided, that an award for
2 damages in a case sounding in tort, other than certain cases
3 involving the operation of a State vehicle described in this
4 paragraph, shall not exceed the sum of \$100,000 to or for the
5 benefit of any claimant. The \$100,000 limit prescribed by this
6 Section does not apply to an award of damages in any case
7 sounding in tort arising out of the operation by a State
8 employee of a vehicle owned, leased or controlled by the State.
9 The defense that the State or the Medical Center Commission or
10 the Board of Trustees of the University of Illinois, the Board
11 of Trustees of Southern Illinois University, the Board of
12 Trustees of Chicago State University, the Board of Trustees of
13 Eastern Illinois University, the Board of Trustees of Governors
14 State University, the Board of Trustees of Illinois State
15 University, the Board of Trustees of Northeastern Illinois
16 University, the Board of Trustees of Northern Illinois
17 University, the Board of Trustees of Western Illinois
18 University, or the Board of Trustees of the Illinois
19 Mathematics and Science Academy is not liable for the
20 negligence of its officers, agents, and employees in the course
21 of their employment is not applicable to the hearing and
22 determination of such claims.

23 (e) All claims for recoupment made by the State of Illinois
24 against any claimant.

25 (f) All claims pursuant to the Line of Duty Compensation
26 Act. A claim under that Act must be heard and determined within

1 one year after the application for that claim is filed with the
2 Court as provided in that Act.

3 (g) All claims filed pursuant to the Crime Victims
4 Compensation Act.

5 (h) All claims pursuant to the Illinois National
6 Guardsman's Compensation Act. A claim under that Act must be
7 heard and determined within one year after the application for
8 that claim is filed with the Court as provided in that Act.

9 (i) All claims authorized by subsection (a) of Section
10 10-55 of the Illinois Administrative Procedure Act for the
11 expenses incurred by a party in a contested case on the
12 administrative level.

13 (Source: P.A. 95-970, eff. 9-22-08; 96-80, eff. 7-27-09.)

14 (705 ILCS 505/11) (from Ch. 37, par. 439.11)

15 Sec. 11. Filing claims. ~~The (a) Except as otherwise~~
16 ~~provided in subsection (b) of this Section and subsection (4)~~
17 ~~of Section 24, the~~ claimant shall in all cases set forth fully
18 in his petition the claim, the action thereon, if any, on
19 behalf of the State, what persons are owners thereof or
20 interested therein, when and upon what consideration such
21 persons became so interested; that no assignment or transfer of
22 the claim or any part thereof or interest therein has been
23 made, except as stated in the petition; that the claimant is
24 justly entitled to the amount therein claimed from the State of
25 Illinois, after allowing all just credits; and that claimant

1 believes the facts stated in the petition to be true. The
2 petition shall be verified, as to statements of facts, by the
3 affidavit of the claimant, his agent, or attorney.

4 ~~(b) Whenever a person has served a term of imprisonment and~~
5 ~~has received a pardon by the Governor stating that such pardon~~
6 ~~was issued on the ground of innocence of the crime for which he~~
7 ~~or she was imprisoned, the Prisoner Review Board shall transmit~~
8 ~~this information to the clerk of the Court of Claims, together~~
9 ~~with the claimant's current address. Whenever a person has~~
10 ~~served a term of imprisonment and has received a certificate of~~
11 ~~innocence from the Circuit Court as provided in Section 2-702~~
12 ~~of the Code of Civil Procedure, the clerk of the issuing~~
13 ~~Circuit Court shall transmit this information to the clerk of~~
14 ~~the Court of Claims, together with the claimant's current~~
15 ~~address. The clerk of the Court of Claims shall immediately~~
16 ~~docket the case for consideration by the Court of Claims, and~~
17 ~~shall provide notice to the claimant of such docketing together~~
18 ~~with all hearing dates and applicable deadlines. The Court of~~
19 ~~Claims shall hear the case and render a decision within 90 days~~
20 ~~after its docketing.~~

21 (Source: P.A. 95-970, eff. 9-22-08; 96-328, eff. 8-11-09.)

22 (705 ILCS 505/22) (from Ch. 37, par. 439.22)

23 Sec. 22. Every claim cognizable by the Court and not
24 otherwise sooner barred by law shall be forever barred from
25 prosecution therein unless it is filed with the Clerk of the

1 Court within the time set forth as follows:

2 (a) All claims arising out of a contract must be filed
3 within 5 years after it first accrues, saving to minors, and
4 persons under legal disability at the time the claim accrues,
5 in which cases the claim must be filed within 5 years from the
6 time the disability ceases.

7 (b) All claims cognizable against the State by vendors of
8 goods or services under "The Illinois Public Aid Code",
9 approved April 11, 1967, as amended, must file within one year
10 after the accrual of the cause of action, as provided in
11 Section 11-13 of that Code.

12 (c) (Blank). ~~All claims arising under paragraph (c) of~~
13 ~~Section 8 of this Act must be automatically heard by the court~~
14 ~~within 120 days after the person asserting such claim is either~~
15 ~~issued a certificate of innocence from the Circuit Court as~~
16 ~~provided in Section 2-702 of the Code of Civil Procedure, or is~~
17 ~~granted a pardon by the Governor, whichever occurs later,~~
18 ~~without the person asserting the claim being required to file a~~
19 ~~petition under Section 11 of this Act, except as otherwise~~
20 ~~provided by the Crime Victims Compensation Act. Any claims~~
21 ~~filed by the claimant under paragraph (c) of Section 8 of this~~
22 ~~Act must be filed within 2 years after the person asserting~~
23 ~~such claim is either issued a certificate of innocence as~~
24 ~~provided in Section 2-702 of the Code of Civil Procedure, or is~~
25 ~~granted a pardon by the Governor, whichever occurs later.~~

26 (d) All claims arising under paragraph (f) of Section 8 of

1 this Act must be filed within the time set forth in Section 3
2 of the Line of Duty Compensation Act.

3 (e) All claims arising under paragraph (h) of Section 8 of
4 this Act must be filed within one year of the date of the death
5 of the guardsman or militiaman as provided in Section 3 of the
6 "Illinois National Guardsman's and Naval Militiaman's
7 Compensation Act", approved August 12, 1971, as amended.

8 (f) All claims arising under paragraph (g) of Section 8 of
9 this Act must be filed within one year of the crime on which a
10 claim is based as provided in Section 6.1 of the "Crime Victims
11 Compensation Act", approved August 23, 1973, as amended.

12 (g) All claims arising from the Comptroller's refusal to
13 issue a replacement warrant pursuant to Section 10.10 of the
14 State Comptroller Act must be filed within 5 years after the
15 issue date of such warrant.

16 (h) All other claims must be filed within 2 years after it
17 first accrues, saving to minors, and persons under legal
18 disability at the time the claim accrues, in which case the
19 claim must be filed within 2 years from the time the disability
20 ceases.

21 (i) The changes made by this amendatory Act of 1989 shall
22 apply to all warrants issued within the 5 year period preceding
23 the effective date of this amendatory Act of 1989.

24 (j) All time limitations established under this Act and the
25 rules promulgated under this Act shall be binding and
26 jurisdictional, except upon extension authorized by law or rule

1 and granted pursuant to a motion timely filed.

2 (Source: P.A. 95-928, eff. 8-26-08; 95-970, eff. 9-22-08;
3 96-328, eff. 8-11-09.)

4 (705 ILCS 505/24) (from Ch. 37, par. 439.24)

5 Sec. 24. Payment of awards.

6 (1) From funds appropriated by the General Assembly for the
7 purposes of this Section the Court may direct immediate payment
8 of:

9 (a) All claims arising solely as a result of the
10 lapsing of an appropriation out of which the obligation
11 could have been paid.

12 (b) All claims pursuant to the Line of Duty
13 Compensation Act.

14 (c) All claims pursuant to the "Illinois National
15 Guardsman's and Naval Militiaman's Compensation Act",
16 approved August 12, 1971, as amended.

17 (d) All claims pursuant to the "Crime Victims
18 Compensation Act", approved August 23, 1973, as amended.

19 (e) All other claims wherein the amount of the award of
20 the Court is less than \$5,000.

21 (2) The court may, from funds specifically appropriated
22 from the General Revenue Fund for this purpose, direct the
23 payment of awards less than \$50,000 solely as a result of the
24 lapsing of an appropriation originally made from any fund held
25 by the State Treasurer. For any such award paid from the

1 General Revenue Fund, the court shall thereafter seek an
2 appropriation from the fund from which the liability originally
3 accrued in reimbursement of the General Revenue Fund.

4 (3) In directing payment of a claim pursuant to the Line of
5 Duty Compensation Act, the Court must direct the Comptroller to
6 add an interest penalty if payment of a claim is not made
7 within 6 months after a claim is filed in accordance with
8 Section 3 of the Line of Duty Compensation Act and all
9 information has been submitted as required under Section 4 of
10 the Line of Duty Compensation Act. If payment is not issued
11 within the 6-month period, an interest penalty of 1% of the
12 amount of the award shall be added for each month or fraction
13 thereof after the end of the 6-month period, until final
14 payment is made. This interest penalty shall be added
15 regardless of whether the payment is not issued within the
16 6-month period because of the appropriation process, the
17 consideration of the matter by the Court, or any other reason.

18 (3.5) The interest penalty payment provided for in
19 subsection (3) shall be added to all claims for which benefits
20 were not paid as of the effective date of P.A. 95-928. The
21 interest penalty shall be calculated starting from the
22 effective date of P.A. 95-928, provided that the effective date
23 of P.A. 95-928 is at least 6 months after the date on which the
24 claim was filed in accordance with Section 3 of the Line of
25 Duty Compensation Act. In the event that the date 6 months
26 after the date on which the claim was filed is later than the

1 effective date of P.A. 95-928, the Court shall calculate the
2 interest payment penalty starting from the date 6 months after
3 the date on which the claim was filed in accordance with
4 Section 3 of the Line of Duty Compensation Act. This subsection
5 (3.5) of this amendatory Act of the 96th General Assembly is
6 declarative of existing law.

7 (3.6) In addition to the interest payments provided for in
8 subsections (3) and (3.5), the Court shall direct the
9 Comptroller to add a "catch-up" payment to the claims of
10 eligible claimants. For the purposes of this subsection (3.6),
11 an "eligible claimant" is a claimant whose claim is not paid in
12 the year in which it was filed. For purposes of this subsection
13 (3.6), "'catch-up' payment" is defined as the difference
14 between the amount paid to claimants whose claims were filed in
15 the year in which the eligible claimant's claim is paid and the
16 amount paid to claimants whose claims were filed in the year in
17 which the eligible claimant filed his or her claim. The
18 "catch-up" payment is payable simultaneously with the claim
19 award.

20 (4) (Blank). ~~From funds appropriated by the General~~
21 ~~Assembly for the purposes of paying claims under paragraph (c)~~
22 ~~of Section 8, the court must direct payment of each claim and~~
23 ~~the payment must be received by the claimant within 60 days~~
24 ~~after the date that the funds are appropriated for that~~
25 ~~purpose.~~

26 (Source: P.A. 95-928, eff. 8-26-08; 95-970, eff. 9-22-08;

1 96-328, eff. 8-11-09; 96-539, eff. 1-1-10.)

2 Section 25-15. The State Lawsuit Immunity Act is amended by
3 changing Section 1 as follows:

4 (745 ILCS 5/1) (from Ch. 127, par. 801)

5 Sec. 1. Except as provided in the Illinois Public Labor
6 Relations Act, the Compensation for Wrongfully Imprisoned
7 Persons Act, the Court of Claims Act, the State Officials and
8 Employees Ethics Act, and Section 1.5 of this Act, the State of
9 Illinois shall not be made a defendant or party in any court.
10 (Source: P.A. 97-618, eff. 10-26-11.)