



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB0213

by Rep. La Shawn K. Ford

SYNOPSIS AS INTRODUCED:

New Act

20 ILCS 1605/7.4a new

35 ILCS 5/203

from Ch. 120, par. 2-203

Creates the School Choice Act. Provides findings and declarations of policy. Establishes the School Choice Program. Provides that under the program the custodian of a qualifying pupil is entitled to a School Choice Scholarship to pay for qualified education expenses at participating nonpublic schools. Requires the principal of each public school to notify custodians of qualifying pupils of the availability of scholarships. Requires custodians to apply to the State Board of Education for a scholarship and provide documentation as to eligibility. Requires the State Board to issue a scholarship to custodians who have made proper application and to honor the scholarship when presented for payment by a nonpublic school. Provides for the amount of a scholarship. Provides that the scholarship may be renewed each year through the 12th grade so long as the pupil and custodian remain eligible. Contains funding provisions. Provides that the amount received under the program shall not be considered base income for purposes of Illinois' income tax. Requires the State Board to submit a report to the General Assembly on or before December 31, 2020. Provides criminal penalties for certain violations. Requires the State Board to adopt rules to implement the Act. Repeals the Act on January 1, 2021. Amends the Illinois Lottery Law and the Illinois Income Tax Act to make conforming changes. Effective immediately.

LRB100 04142 NHT 14147 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning education.

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

4 Section 1. Short title. This Act may be cited as the School
5 Choice Act.

6 Section 5. Findings and declaration of policy. The General
7 Assembly finds and declares the following:

8 (1) There is a crisis in the education programs in this
9 State. Many schools and their pupils are performing
10 significantly below relevant national standards and are
11 unable to access functions of federal and State law
12 designed to improve their performance. Consequently, many
13 pupils are dropping out of school before completing the
14 ordinary course of secondary education or are leaving
15 school without the basic skills and knowledge that will
16 enable them to find and hold a job or otherwise become
17 functioning, productive members of our society.

18 (2) Within this State there are many public and
19 nonpublic schools and independent education services
20 competently and efficiently educating or contributing to
21 the education of children. Most pupils in those schools or
22 receiving those services perform at or above relevant
23 national standards, complete their secondary education,

1 and matriculate to institutions of higher education at an
2 extremely high rate. These services and schools should be
3 accessible to all and should enjoy a cooperative
4 relationship with public school districts, schools, and
5 employees of this State.

6 (3) Custodians of school age children in this State are
7 frequently unable to enroll their children in schools that
8 will provide them a quality education due to a lack of
9 funds.

10 (4) Adopting a pilot school choice program for a
11 limited number of students would enable parents to select
12 schools or services they believe will provide a quality
13 education for their children, empower them to influence the
14 educational policies and procedures in the schools their
15 children attend, and provide them with at least a portion
16 of the funds necessary to pay for a quality education. Such
17 a program would test a new approach to education that could
18 be expanded to the rest of the State.

19 (5) The provisions of this Act are in the public
20 interest, for the public benefit, and serve a secular
21 public purpose.

22 Section 10. Definitions. As used in this Act:

23 "Base year" means the 2017-2018 school year.

24 "Custodian" means, with respect to a qualifying pupil, a
25 parent or legal guardian who is a resident of a qualifying zip

1 code.

2 "Final year" means the 2021-2022 school year.

3 "Nonpublic school" means any State-recognized, nonpublic
4 secondary school that elects to participate in the school
5 choice program established under this Act and does not
6 discriminate on the basis of race, color, or national origin
7 under Title VI of the Civil Rights Act of 1964 and attendance
8 at which satisfies the requirements of Section 26-1 of the
9 School Code, except that nothing in Section 26-1 shall be
10 construed to require a child to attend any particular nonpublic
11 school.

12 "Qualified education expenses" means costs reasonably
13 incurred on behalf of a qualifying pupil for the services of a
14 participating nonpublic school in which the qualifying pupil is
15 enrolled during the regular school year. Qualified education
16 expenses does not include costs incurred for supplies or
17 extra-curricular activities.

18 "Qualifying pupil" means an individual who:

19 (1) is a resident of a qualifying zip code;

20 (2) is enrolled in kindergarten through grade 8 during
21 the 2017-2018 school year in a public school or has
22 received a School Choice Scholarship in the previous school
23 year; and

24 (3) during the school year for which a scholarship is
25 sought, will be a full-time pupil enrolled in a 1st grade
26 through 12th grade education program.

1 "Qualifying zip code" means one of the 20 zip codes that
2 generated the greatest amount of State lottery sales in 2016,
3 as certified by the Department of the Lottery.

4 "School Choice Scholarship" means a written instrument
5 issued by the State Board of Education directly to the
6 custodian of a qualifying pupil. The instrument shall be for a
7 sum certain, which must not exceed the foundation level of
8 support amount specified in subsection (B) of Section 18-8.05
9 of the School Code, to be paid within a designated period of
10 time. The custodian may present the instrument only to a
11 participating nonpublic school as payment for qualified
12 education expenses incurred on behalf of the qualifying pupil.

13 Section 15. Establishment of program. There is established
14 the School Choice Program. Under the program, after the base
15 year and through the final year, a custodian of a qualifying
16 pupil shall be entitled to a School Choice Scholarship for
17 payment of qualified education expenses incurred on behalf of
18 the qualifying pupil at any participating nonpublic school in
19 which the qualifying pupil is enrolled. A qualifying pupil
20 shall be entitled to enroll at and attend any participating
21 nonpublic school of his or her choice.

22 Section 20. Notification of scholarships. The principal of
23 each public school in a qualifying zip code shall notify
24 custodians of qualifying pupils that scholarships under this

1 Act are available for the next school year. Notification shall
2 occur in January of each school year beginning with the base
3 year through the school year before the final year.

4 Section 25. Request for scholarship. A custodian who
5 applies in accordance with procedures established by the State
6 Board of Education shall receive a scholarship under this Act
7 within the scholarship issuance limits set out in this Act. The
8 procedure shall require application for the scholarship, with
9 documentation as to eligibility, between March 1 and May 1
10 prior to the school year in which the scholarship is to be
11 used.

12 Section 30. Issuance and payment of scholarship. A
13 scholarship may only be issued to a custodian who has made
14 proper application pursuant to Section 25 of this Act. The
15 State Board of Education shall issue no more than 1,000
16 scholarships for a school year. Scholarship renewals to
17 qualifying pupils must be prioritized, and the State Board of
18 Education shall strive to issue first-time scholarships
19 equitably between qualifying pupils in the elementary grade
20 levels and qualifying pupils in the secondary grade levels. The
21 custodian shall present the scholarship to a participating
22 nonpublic school of his or her choice as payment for qualified
23 education expenses. Upon presentment, the State Board of
24 Education shall honor the scholarship and, as issuer of the

1 instrument, pay the participating nonpublic school in
2 accordance with procedures established by the State Board of
3 Education. The procedures shall require all of the following:

4 (1) that the applying custodian be notified of the
5 scholarship award by July 1 of the school year in which the
6 scholarship is to be used;

7 (2) that the scholarship instrument be issued to the
8 custodian no later than August 15 of the school year in
9 which the scholarship is to be used;

10 (3) that the custodian present the scholarship
11 instrument to the participating school no later than
12 September 1 of the school year in which the scholarship is
13 to be used;

14 (4) that the participating school present the
15 scholarship instrument, with proof of service to the
16 custodian of the qualifying pupil, to the State Board of
17 Education no later than September 31 of the school year in
18 which the scholarship is to be used;

19 (5) that the State Board of Education shall honor the
20 scholarship instrument and as issuer pay the participating
21 school no later than November 31 of the school year in
22 which the scholarship is to be used;

23 (6) that participating schools must not be required to
24 accept scholarships as full payment for services but
25 neither shall they charge scholarship pupils tuition or any
26 other educational expenses at a higher rate than other

1 pupils; and

2 (7) that if a student attending a nonpublic school
3 under the School Choice Program is expelled from the
4 nonpublic school before the State Board of Education has
5 honored the scholarship of the school, then the State Board
6 of Education shall pay the corresponding prorated portion
7 of the scholarship amount to the nonpublic school; and that
8 if the State Board of Education has paid the scholarship
9 amount to the nonpublic school and the pupil is expelled,
10 then the nonpublic school shall refund the corresponding
11 prorated portion of the scholarship to the State Board of
12 Education.

13 No scholarships shall be issued for a school year after the
14 final year.

15 Section 35. Amount of scholarship. A School Choice
16 Scholarship for qualified education expenses incurred through
17 participating schools during any school year after the base
18 year shall be for the lesser of (i) the foundation level of
19 support amount specified in subsection (B) of Section 18-8.05
20 of the School Code or (ii) the actual qualified education
21 expenses related to the qualifying pupil's enrollment.

22 Section 40. Renewal of scholarship. School Choice
23 Scholarships shall be renewable every year through grade 12 so
24 long as the qualifying pupil and custodian continue to remain

1 eligible pursuant to Section 10 of this Act.

2 Section 50. Funding. Funding for the School Choice Program
3 shall come from the transfers made from the State Lottery Fund
4 to the Common School Fund.

5 Section 55. Not base income. The amount of any scholarship
6 redeemed under this Act shall not be considered base income
7 under subsection (a) of Section 203 of the Illinois Income Tax
8 Act and shall not be taxable for Illinois income tax purposes.

9 Section 60. Report and expansion. On or before December 31,
10 2020, the State Board of Education shall submit a report to the
11 General Assembly reviewing the program operating under this
12 Act. This report shall include, but not be limited to, the
13 number of qualifying pupils receiving a School Choice
14 Scholarship, the names of the schools from which and to which
15 pupils transferred, the financial ramifications of the
16 program, and the results of pupil assessments. In its report,
17 the State Board of Education shall assess whether the program
18 has been financially and academically beneficial and shall make
19 a recommendation on whether the program should be extended or
20 expanded to other areas of this State.

21 Section 65. Penalties. It shall be a Class 3 felony to use
22 or attempt to use a scholarship under this Act for any purpose

1 other than those permitted by this Act. It shall also be a
2 Class 3 felony for any person, with intent to defraud, to
3 knowingly forge, alter, or misrepresent information on a
4 scholarship application or on any documents submitted in
5 application for a scholarship, to deliver any such document
6 knowing it to have been thus forged, altered, or based on
7 misrepresentation, or to possess, with intent to issue or
8 deliver, any such document knowing it to have been thus forged,
9 altered, or based on misrepresentation.

10 Section 70. Rules. The State Board of Education shall adopt
11 rules to implement this Act. The creation of the School Choice
12 Program does not expand the regulatory authority of this State,
13 its officers, or any school district to impose any additional
14 regulation of nonpublic schools beyond those reasonably
15 necessary to enforce the requirements of the program.

16 Section 500. Repeal. This Act is repealed on January 1,
17 2021.

18 Section 895. The Illinois Lottery Law is amended by adding
19 Section 7.4a as follows:

20 (20 ILCS 1605/7.4a new)

21 Sec. 7.4a. Certification under School Choice Act. Before
22 August 1, 2017, the Department shall certify to the State Board

1 of Education the 20 zip codes that generated the greatest
2 amount of sales of State lottery tickets in 2016 for the
3 purposes of the School Choice Act.

4 Section 900. The Illinois Income Tax Act is amended by
5 changing Section 203 as follows:

6 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

7 Sec. 203. Base income defined.

8 (a) Individuals.

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

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

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

23 (B) An amount equal to the amount of tax imposed by
24 this Act to the extent deducted from gross income in

1 the computation of adjusted gross income for the
2 taxable year;

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

15 (D) 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 adjusted gross income;

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

1 (D-10) For taxable years ending after December 31,
2 1997, an amount equal to any eligible remediation costs
3 that the individual deducted in computing adjusted
4 gross income and for which the individual claims a
5 credit under subsection (l) of Section 201;

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

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

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

25 The taxpayer is required to make the addition
26 modification under this subparagraph only once with

1 respect to any one piece of property;

2 (D-17) An amount equal to the amount otherwise
3 allowed as a deduction in computing base income for
4 interest paid, accrued, or incurred, directly or
5 indirectly, (i) for taxable years ending on or after
6 December 31, 2004, to a foreign person who would be a
7 member of the same unitary business group but for the
8 fact that foreign person's business activity outside
9 the United States is 80% or more of the foreign
10 person's total business activity and (ii) for taxable
11 years ending on or after December 31, 2008, to a person
12 who would be a member of the same unitary business
13 group but for the fact that the person is prohibited
14 under Section 1501(a)(27) from being included in the
15 unitary business group because he or she is ordinarily
16 required to apportion business income under different
17 subsections of Section 304. The addition modification
18 required by this subparagraph shall be reduced to the
19 extent that dividends were included in base income of
20 the unitary group for the same taxable year and
21 received by the taxpayer or by a member of the
22 taxpayer's unitary business group (including amounts
23 included in gross income under Sections 951 through 964
24 of the Internal Revenue Code and amounts included in
25 gross income under Section 78 of the Internal Revenue
26 Code) with respect to the stock of the same person to

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

2 This paragraph shall not apply to the following:

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

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

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

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

24 (iii) the taxpayer can establish, based on
25 clear and convincing evidence, that the interest
26 paid, accrued, or incurred relates to a contract or

1 agreement entered into at arm's-length rates and
2 terms and the principal purpose for the payment is
3 not federal or Illinois tax avoidance; or

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

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

20 (D-18) An amount equal to the amount of intangible
21 expenses and costs otherwise allowed as a deduction in
22 computing base income, and that were paid, accrued, or
23 incurred, directly or indirectly, (i) for taxable
24 years ending on or after December 31, 2004, to a
25 foreign person who would be a member of the same
26 unitary business group but for the fact that the

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

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

13 This paragraph shall not apply to the following:

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

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

26 (a) the person during the same taxable

1 year paid, accrued, or incurred, the
2 intangible expense or cost to a person that is
3 not a related member, and

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

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

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

1 under Section 404 of this Act;

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

1 Section 203(a) (2) (D-18) of this Act.

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

1 program to inform in-state residents of the existence
2 of in-state qualified tuition programs at least
3 annually, an amount equal to the amount excluded from
4 gross income under Section 529(c)(3)(B).

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

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

24 (D-22) For taxable years beginning on or after
25 January 1, 2009, in the case of a nonqualified
26 withdrawal or refund of moneys from a qualified tuition

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

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

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

16 (E) For taxable years ending before December 31,
17 2001, any amount included in such total in respect of
18 any compensation (including but not limited to any
19 compensation paid or accrued to a serviceman while a
20 prisoner of war or missing in action) paid to a
21 resident by reason of being on active duty in the Armed
22 Forces of the United States and in respect of any
23 compensation paid or accrued to a resident who as a
24 governmental employee was a prisoner of war or missing
25 in action, and in respect of any compensation paid to a
26 resident in 1971 or thereafter for annual training

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

21 (F) An amount equal to all amounts included in such
22 total pursuant to the provisions of Sections 402(a),
23 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the
24 Internal Revenue Code, or included in such total as
25 distributions under the provisions of any retirement
26 or disability plan for employees of any governmental

1 agency or unit, or retirement payments to retired
2 partners, which payments are excluded in computing net
3 earnings from self employment by Section 1402 of the
4 Internal Revenue Code and regulations adopted pursuant
5 thereto;

6 (G) The valuation limitation amount;

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

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

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

23 (K) An amount equal to those dividends included in
24 such total that were paid by a corporation that
25 conducts business operations in a federally designated
26 Foreign Trade Zone or Sub-Zone and that is designated a

1 High Impact Business located in Illinois; provided
2 that dividends eligible for the deduction provided in
3 subparagraph (J) of paragraph (2) of this subsection
4 shall not be eligible for the deduction provided under
5 this subparagraph (K);

6 (L) For taxable years ending after December 31,
7 1983, an amount equal to all social security benefits
8 and railroad retirement benefits included in such
9 total pursuant to Sections 72(r) and 86 of the Internal
10 Revenue Code;

11 (M) With the exception of any amounts subtracted
12 under subparagraph (N), an amount equal to the sum of
13 all amounts disallowed as deductions by (i) Sections
14 171(a) (2), and 265(2) of the Internal Revenue Code,
15 and all amounts of expenses allocable to interest and
16 disallowed as deductions by Section 265(1) of the
17 Internal Revenue Code; and (ii) for taxable years
18 ending on or after August 13, 1999, Sections 171(a) (2),
19 265, 280C, and 832(b) (5) (B) (i) of the Internal Revenue
20 Code, plus, for taxable years ending on or after
21 December 31, 2011, Section 45G(e) (3) of the Internal
22 Revenue Code and, for taxable years ending on or after
23 December 31, 2008, any amount included in gross income
24 under Section 87 of the Internal Revenue Code; the
25 provisions of this subparagraph are exempt from the
26 provisions of Section 250;

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

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

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

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

26 (R) An amount equal to the amount of any federal or

1 State bonus paid to veterans of the Persian Gulf War;

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

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

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

23 (V) Beginning with tax years ending on or after
24 December 31, 1995 and ending with tax years ending on
25 or before December 31, 2004, an amount equal to the
26 amount paid by a taxpayer who is a self-employed

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

24 (W) For taxable years beginning on or after January
25 1, 1998, all amounts included in the taxpayer's federal
26 gross income in the taxable year from amounts converted

1 from a regular IRA to a Roth IRA. This paragraph is
2 exempt from the provisions of Section 250;

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

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

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

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

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

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

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

22 (3) for taxable years ending after December
23 31, 2005:

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

1 30 and then divided by 70 (or "y" multiplied by
2 0.429); and

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

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

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

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 required in any taxable year to make an addition
25 modification under subparagraph (D-15), then an amount
26 equal to that addition modification.

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

4 This subparagraph (AA) is exempt from the
5 provisions of Section 250;

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

9 (CC) The amount of (i) any interest income (net of
10 the deductions allocable thereto) taken into account
11 for the taxable year with respect to a transaction with
12 a taxpayer that is required to make an addition
13 modification with respect to such transaction under
14 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
15 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
16 the amount of that addition modification, and (ii) any
17 income from intangible property (net of the deductions
18 allocable thereto) taken into account for the taxable
19 year with respect to a transaction with a taxpayer that
20 is required to make an addition modification with
21 respect to such transaction under Section
22 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
23 203(d)(2)(D-8), but not to exceed the amount of that
24 addition modification. This subparagraph (CC) is
25 exempt from the provisions of Section 250;

26 (DD) An amount equal to the interest income taken

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

20 (EE) An amount equal to the income from intangible
21 property taken into account for the taxable year (net
22 of the deductions allocable thereto) with respect to
23 transactions with (i) a foreign person who would be a
24 member of the taxpayer's unitary business group but for
25 the fact that the foreign person's business activity
26 outside the United States is 80% or more of that

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

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

21 (GG) For taxable years ending on or after December
22 31, 2011, in the case of a taxpayer who was required to
23 add back any insurance premiums under Section
24 203(a)(2)(D-19), such taxpayer may elect to subtract
25 that part of a reimbursement received from the
26 insurance company equal to the amount of the expense or

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

10 (HH) For taxable years ending on or after December
11 31, 2017, an amount, to the extent that it is included
12 in adjusted gross income, equal to any scholarship
13 redeemed under the School Choice Act. This
14 subparagraph (HH) is exempt from the provisions of
15 Section 250.

16 (b) Corporations.

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

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

23 (A) An amount equal to all amounts paid or accrued
24 to the taxpayer as interest and all distributions
25 received from regulated investment companies during

1 the taxable year to the extent excluded from gross
2 income in the computation of taxable income;

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

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

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

20 (E) For taxable years in which a net operating loss
21 carryback or carryforward from a taxable year ending
22 prior to December 31, 1986 is an element of taxable
23 income under paragraph (1) of subsection (e) or
24 subparagraph (E) of paragraph (2) of subsection (e),
25 the amount by which addition modifications other than
26 those provided by this subparagraph (E) exceeded

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

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

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

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

24 (E-5) For taxable years ending after December 31,
25 1997, an amount equal to any eligible remediation costs
26 that the corporation deducted in computing adjusted

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

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

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

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

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

25 (E-12) An amount equal to the amount otherwise
26 allowed as a deduction in computing base income for

1 interest paid, accrued, or incurred, directly or
2 indirectly, (i) for taxable years ending on or after
3 December 31, 2004, to a foreign person who would be a
4 member of the same unitary business group but for the
5 fact the foreign person's business activity outside
6 the United States is 80% or more of the foreign
7 person's total business activity and (ii) for taxable
8 years ending on or after December 31, 2008, to a person
9 who would be a member of the same unitary business
10 group but for the fact that the person is prohibited
11 under Section 1501(a)(27) from being included in the
12 unitary business group because he or she is ordinarily
13 required to apportion business income under different
14 subsections of Section 304. The addition modification
15 required by this subparagraph shall be reduced to the
16 extent that dividends were included in base income of
17 the unitary group for the same taxable year and
18 received by the taxpayer or by a member of the
19 taxpayer's unitary business group (including amounts
20 included in gross income pursuant to Sections 951
21 through 964 of the Internal Revenue Code and amounts
22 included in gross income under Section 78 of the
23 Internal Revenue Code) with respect to the stock of the
24 same person to whom the interest was paid, accrued, or
25 incurred.

26 This paragraph shall not apply to the following:

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

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

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

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

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

1 not federal or Illinois tax avoidance; or
2 (iv) an item of interest paid, accrued, or
3 incurred, directly or indirectly, to a person if
4 the taxpayer establishes by clear and convincing
5 evidence that the adjustments are unreasonable; or
6 if the taxpayer and the Director agree in writing
7 to the application or use of an alternative method
8 of apportionment under Section 304(f).

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

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

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

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

11 This paragraph shall not apply to the following:

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

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

24 (a) the person during the same taxable
25 year paid, accrued, or incurred, the
26 intangible expense or cost to a person that is

1 not a related member, and

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

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

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

26 (E-14) For taxable years ending on or after

1 December 31, 2008, an amount equal to the amount of
2 insurance premium expenses and costs otherwise allowed
3 as a deduction in computing base income, and that were
4 paid, accrued, or incurred, directly or indirectly, to
5 a person who would be a member of the same unitary
6 business group but for the fact that the person is
7 prohibited under Section 1501(a)(27) from being
8 included in the unitary business group because he or
9 she is ordinarily required to apportion business
10 income under different subsections of Section 304. The
11 addition modification required by this subparagraph
12 shall be reduced to the extent that dividends were
13 included in base income of the unitary group for the
14 same taxable year and received by the taxpayer or by a
15 member of the taxpayer's unitary business group
16 (including amounts included in gross income under
17 Sections 951 through 964 of the Internal Revenue Code
18 and amounts included in gross income under Section 78
19 of the Internal Revenue Code) with respect to the stock
20 of the same person to whom the premiums and costs were
21 directly or indirectly paid, incurred, or accrued. The
22 preceding sentence does not apply to the extent that
23 the same dividends caused a reduction to the addition
24 modification required under Section 203(b)(2)(E-12) or
25 Section 203(b)(2)(E-13) of this Act;

26 (E-15) For taxable years beginning after December

1 31, 2008, any deduction for dividends paid by a captive
2 real estate investment trust that is allowed to a real
3 estate investment trust under Section 857(b)(2)(B) of
4 the Internal Revenue Code for dividends paid;

5 (E-16) 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 sum of the
10 following amounts:

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

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

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

21 (I) With the exception of any amounts subtracted
22 under subparagraph (J), an amount equal to the sum of
23 all amounts disallowed as deductions by (i) Sections
24 171(a) (2), and 265(a)(2) and amounts disallowed as
25 interest expense by Section 291(a)(3) of the Internal
26 Revenue Code, and all amounts of expenses allocable to

1 interest and disallowed as deductions by Section
2 265(a)(1) of the Internal Revenue Code; and (ii) for
3 taxable years ending on or after August 13, 1999,
4 Sections 171(a)(2), 265, 280C, 291(a)(3), and
5 832(b)(5)(B)(i) of the Internal Revenue Code, plus,
6 for tax years ending on or after December 31, 2011,
7 amounts disallowed as deductions by Section 45G(e)(3)
8 of the Internal Revenue Code and, for taxable years
9 ending on or after December 31, 2008, any amount
10 included in gross income under Section 87 of the
11 Internal Revenue Code and the policyholders' share of
12 tax-exempt interest of a life insurance company under
13 Section 807(a)(2)(B) of the Internal Revenue Code (in
14 the case of a life insurance company with gross income
15 from a decrease in reserves for the tax year) or
16 Section 807(b)(1)(B) of the Internal Revenue Code (in
17 the case of a life insurance company allowed a
18 deduction for an increase in reserves for the tax
19 year); the provisions of this subparagraph are exempt
20 from the provisions of Section 250;

21 (J) An amount equal to all amounts included in such
22 total which are exempt from taxation by this State
23 either by reason of its statutes or Constitution or by
24 reason of the Constitution, treaties or statutes of the
25 United States; provided that, in the case of any
26 statute of this State that exempts income derived from

1 bonds or other obligations from the tax imposed under
2 this Act, the amount exempted shall be the interest net
3 of bond premium amortization;

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

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

21 (M) For any taxpayer that is a financial
22 organization within the meaning of Section 304(c) of
23 this Act, an amount included in such total as interest
24 income from a loan or loans made by such taxpayer to a
25 borrower, to the extent that such a loan is secured by
26 property which is eligible for the River Edge

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

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

1 the taxpayer and the borrower should be divided into
2 the basis of the Section 201(h) investment credit
3 property which secures the loan or loans, using for
4 this purpose the original basis of such property on the
5 date that it was placed in service in a federally
6 designated Foreign Trade Zone or Sub-Zone located in
7 Illinois. No taxpayer that is eligible for the
8 deduction provided in subparagraph (M) of paragraph
9 (2) of this subsection shall be eligible for the
10 deduction provided under this subparagraph (M-1). The
11 subtraction modification available to taxpayers in any
12 year under this subsection shall be that portion of the
13 total interest paid by the borrower with respect to
14 such loan attributable to the eligible property as
15 calculated under the previous sentence;

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

1 (O) An amount equal to: (i) 85% for taxable years
2 ending on or before December 31, 1992, or, a percentage
3 equal to the percentage allowable under Section
4 243(a)(1) of the Internal Revenue Code of 1986 for
5 taxable years ending after December 31, 1992, of the
6 amount by which dividends included in taxable income
7 and received from a corporation that is not created or
8 organized under the laws of the United States or any
9 state or political subdivision thereof, including, for
10 taxable years ending on or after December 31, 1988,
11 dividends received or deemed received or paid or deemed
12 paid under Sections 951 through 965 of the Internal
13 Revenue Code, exceed the amount of the modification
14 provided under subparagraph (G) of paragraph (2) of
15 this subsection (b) which is related to such dividends,
16 and including, for taxable years ending on or after
17 December 31, 2008, dividends received from a captive
18 real estate investment trust; plus (ii) 100% of the
19 amount by which dividends, included in taxable income
20 and received, including, for taxable years ending on or
21 after December 31, 1988, dividends received or deemed
22 received or paid or deemed paid under Sections 951
23 through 964 of the Internal Revenue Code and including,
24 for taxable years ending on or after December 31, 2008,
25 dividends received from a captive real estate
26 investment trust, from any such corporation specified

1 in clause (i) that would but for the provisions of
2 Section 1504 (b) (3) of the Internal Revenue Code be
3 treated as a member of the affiliated group which
4 includes the dividend recipient, exceed the amount of
5 the modification provided under subparagraph (G) of
6 paragraph (2) of this subsection (b) which is related
7 to such dividends. This subparagraph (O) is exempt from
8 the provisions of Section 250 of this Act;

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

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

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

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

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

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

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

1 (2) for taxable years ending on or before
2 December 31, 2005, "x" equals "y" multiplied by 30
3 and then divided by 70 (or "y" multiplied by
4 0.429); and

5 (3) for taxable years ending after December
6 31, 2005:

7 (i) for property on which a bonus
8 depreciation deduction of 30% of the adjusted
9 basis was taken, "x" equals "y" multiplied by
10 30 and then divided by 70 (or "y" multiplied by
11 0.429); and

12 (ii) for property on which a bonus
13 depreciation deduction of 50% of the adjusted
14 basis was taken, "x" equals "y" multiplied by
15 1.0.

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

24 (U) If the taxpayer sells, transfers, abandons, or
25 otherwise disposes of property for which the taxpayer
26 was required in any taxable year to make an addition

1 modification under subparagraph (E-10), then an amount
2 equal to that addition modification.

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

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

13 This subparagraph (U) is exempt from the
14 provisions of Section 250;

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

1 respect to such transaction under Section
2 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
3 203(d)(2)(D-8), but not to exceed the amount of such
4 addition modification, and (iii) any insurance premium
5 income (net of deductions allocable thereto) taken
6 into account for the taxable year with respect to a
7 transaction with a taxpayer that is required to make an
8 addition modification with respect to such transaction
9 under Section 203(a)(2)(D-19), Section
10 203(b)(2)(E-14), Section 203(c)(2)(G-14), or Section
11 203(d)(2)(D-9), but not to exceed the amount of that
12 addition modification. This subparagraph (V) is exempt
13 from the provisions of Section 250;

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

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

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

1 person. This subparagraph (X) is exempt from the
2 provisions of Section 250;

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

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

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

1 "gross income" in the case of a life insurance company, for
2 tax years ending on and after December 31, 1994, and prior
3 to December 31, 2011, shall mean the gross investment
4 income for the taxable year and, for tax years ending on or
5 after December 31, 2011, shall mean all amounts included in
6 life insurance gross income under Section 803(a)(3) of the
7 Internal Revenue Code.

8 (c) Trusts and estates.

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

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

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

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

1 (C) 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 taxable income for the taxable year;

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

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

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

26 (ii) the addition modification relating to the

1 net operating loss carried back or forward to the
2 taxable year from any taxable year ending prior to
3 December 31, 1986 shall not exceed the amount of
4 such carryback or carryforward;

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

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

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

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

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

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

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

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

23 (G-12) An amount equal to the amount otherwise
24 allowed as a deduction in computing base income for
25 interest paid, accrued, or incurred, directly or
26 indirectly, (i) for taxable years ending on or after

1 December 31, 2004, to a foreign person who would be a
2 member of the same unitary business group but for the
3 fact that the foreign person's business activity
4 outside the United States is 80% or more of the foreign
5 person's total business activity and (ii) for taxable
6 years ending on or after December 31, 2008, to a person
7 who would be a member of the same unitary business
8 group but for the fact that the person is prohibited
9 under Section 1501(a)(27) from being included in the
10 unitary business group because he or she is ordinarily
11 required to apportion business income under different
12 subsections of Section 304. The addition modification
13 required by this subparagraph shall be reduced to the
14 extent that dividends were included in base income of
15 the unitary group for the same taxable year and
16 received by the taxpayer or by a member of the
17 taxpayer's unitary business group (including amounts
18 included in gross income pursuant to Sections 951
19 through 964 of the Internal Revenue Code and amounts
20 included in gross income under Section 78 of the
21 Internal Revenue Code) with respect to the stock of the
22 same person to whom the interest was paid, accrued, or
23 incurred.

24 This paragraph shall not apply to the following:

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

1 is subject in a foreign country or state, other
2 than a state which requires mandatory unitary
3 reporting, to a tax on or measured by net income
4 with respect to such interest; or

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

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

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

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

26 (iv) an item of interest paid, accrued, or

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

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

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

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

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

9 This paragraph shall not apply to the following:

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

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

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

26 (b) the transaction giving rise to the

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

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

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

24 (G-14) For taxable years ending on or after
25 December 31, 2008, an amount equal to the amount of
26 insurance premium expenses and costs otherwise allowed

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

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

1 Act;

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

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

15 (I) The valuation limitation amount;

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

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

1 from the tax imposed under this Act, the amount
2 exempted shall be the interest net of bond premium
3 amortization;

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

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

1 provisions of Section 250;

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

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

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

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

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

26 (R) For taxable years 2001 and thereafter, for the

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

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

13 (2) for taxable years ending on or before
14 December 31, 2005, "x" equals "y" multiplied by 30
15 and then divided by 70 (or "y" multiplied by
16 0.429); and

17 (3) for taxable years ending after December
18 31, 2005:

19 (i) for property on which a bonus
20 depreciation deduction of 30% of the adjusted
21 basis was taken, "x" equals "y" multiplied by
22 30 and then divided by 70 (or "y" multiplied by
23 0.429); and

24 (ii) for property on which a bonus
25 depreciation deduction of 50% of the adjusted
26 basis was taken, "x" equals "y" multiplied by

1 1.0.

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

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

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

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

25 This subparagraph (S) is exempt from the
26 provisions of Section 250;

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

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

1 who would be a member of the same unitary business
2 group but for the fact that the person is prohibited
3 under Section 1501(a)(27) from being included in the
4 unitary business group because he or she is ordinarily
5 required to apportion business income under different
6 subsections of Section 304, but not to exceed the
7 addition modification required to be made for the same
8 taxable year under Section 203(c)(2)(G-12) for
9 interest paid, accrued, or incurred, directly or
10 indirectly, to the same person. This subparagraph (U)
11 is exempt from the provisions of Section 250;

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

1 addition modification required to be made for the same
2 taxable year under Section 203(c)(2)(G-13) for
3 intangible expenses and costs paid, accrued, or
4 incurred, directly or indirectly, to the same foreign
5 person. This subparagraph (V) is exempt from the
6 provisions of Section 250;

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

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

19 (Y) For taxable years ending on or after December
20 31, 2011, in the case of a taxpayer who was required to
21 add back any insurance premiums under Section
22 203(c)(2)(G-14), such taxpayer may elect to subtract
23 that part of a reimbursement received from the
24 insurance company equal to the amount of the expense or
25 loss (including expenses incurred by the insurance
26 company) that would have been taken into account as a

1 deduction for federal income tax purposes if the
2 expense or loss had been uninsured. If a taxpayer makes
3 the election provided for by this subparagraph (Y), the
4 insurer to which the premiums were paid must add back
5 to income the amount subtracted by the taxpayer
6 pursuant to this subparagraph (Y). This subparagraph
7 (Y) is exempt from the provisions of Section 250.

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

15 (d) Partnerships.

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

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

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

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

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

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

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

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

23 If the taxpayer continues to own property through
24 the last day of the last tax year for which the
25 taxpayer may claim a depreciation deduction for
26 federal income tax purposes and for which the taxpayer

1 was allowed in any taxable year to make a subtraction
2 modification under subparagraph (O), then an amount
3 equal to that subtraction modification.

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

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

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

8 This paragraph shall not apply to the following:

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

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

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

23 (b) the transaction giving rise to the
24 interest expense between the taxpayer and the
25 person did not have as a principal purpose the
26 avoidance of Illinois income tax, and is paid

1 pursuant to a contract or agreement that
2 reflects an arm's-length interest rate and
3 terms; or

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

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

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

26 (D-8) An amount equal to the amount of intangible

1 expenses and costs otherwise allowed as a deduction in
2 computing base income, and that were paid, accrued, or
3 incurred, directly or indirectly, (i) for taxable
4 years ending on or after December 31, 2004, to a
5 foreign person who would be a member of the same
6 unitary business group but for the fact that the
7 foreign person's business activity outside the United
8 States is 80% or more of that person's total business
9 activity and (ii) for taxable years ending on or after
10 December 31, 2008, to a person who would be a member of
11 the same unitary business group but for the fact that
12 the person is prohibited under Section 1501(a)(27)
13 from being included in the unitary business group
14 because he or she is ordinarily required to apportion
15 business income under different subsections of Section
16 304. The addition modification required by this
17 subparagraph shall be reduced to the extent that
18 dividends were included in base income of the unitary
19 group for the same taxable year and received by the
20 taxpayer or by a member of the taxpayer's unitary
21 business group (including amounts included in gross
22 income pursuant to Sections 951 through 964 of the
23 Internal Revenue Code and amounts included in gross
24 income under Section 78 of the Internal Revenue Code)
25 with respect to the stock of the same person to whom
26 the intangible expenses and costs were directly or

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

19 This paragraph shall not apply to the following:

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

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

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

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

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

25 Nothing in this subsection shall preclude the
26 Director from making any other adjustment

1 otherwise allowed under Section 404 of this Act for
2 any tax year beginning after the effective date of
3 this amendment provided such adjustment is made
4 pursuant to regulation adopted by the Department
5 and such regulations provide methods and standards
6 by which the Department will utilize its authority
7 under Section 404 of this Act;

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

1 of the Internal Revenue Code) with respect to the stock
2 of the same person to whom the premiums and costs were
3 directly or indirectly paid, incurred, or accrued. The
4 preceding sentence does not apply to the extent that
5 the same dividends caused a reduction to the addition
6 modification required under Section 203(d)(2)(D-7) or
7 Section 203(d)(2)(D-8) of this Act;

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

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

14 (E) The valuation limitation amount;

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

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

1 of bond premium amortization;

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

10 (I) An amount equal to all amounts of income
11 distributable to an entity subject to the Personal
12 Property Tax Replacement Income Tax imposed by
13 subsections (c) and (d) of Section 201 of this Act
14 including amounts distributable to organizations
15 exempt from federal income tax by reason of Section
16 501(a) of the Internal Revenue Code; this subparagraph
17 (I) is exempt from the provisions of Section 250;

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

1 Code, plus, (iii) for taxable years ending on or after
2 December 31, 2011, Section 45G(e)(3) of the Internal
3 Revenue Code and, for taxable years ending on or after
4 December 31, 2008, any amount included in gross income
5 under Section 87 of the Internal Revenue Code; the
6 provisions of this subparagraph are exempt from the
7 provisions of Section 250;

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

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

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

1 this subparagraph (M);

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

7 (O) 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 (O) is exempt from the provisions of
16 Section 250;

17 (P) If the taxpayer sells, transfers, abandons, or
18 otherwise disposes of property for which the taxpayer
19 was required in any taxable year to make an addition
20 modification under subparagraph (D-5), then an amount
21 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-5), 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 (P) is exempt from the
7 provisions of Section 250;

8 (Q) The amount of (i) any interest income (net of
9 the deductions allocable thereto) taken into account
10 for the taxable year with respect to a transaction with
11 a taxpayer that is required to make an addition
12 modification with respect to such transaction under
13 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
14 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
15 the amount of such addition modification and (ii) any
16 income from intangible property (net of the deductions
17 allocable thereto) taken into account for the taxable
18 year with respect to a transaction with a taxpayer that
19 is required to make an addition modification with
20 respect to such transaction under Section
21 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
22 203(d)(2)(D-8), but not to exceed the amount of such
23 addition modification. This subparagraph (Q) is exempt
24 from Section 250;

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

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

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

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

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

1 (T) is exempt from the provisions of Section 250.

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

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

1 subparagraph (E) of paragraph (2) of subsection (c) for
2 trusts and estates, exceed subtraction modifications, an
3 addition modification must be made under those
4 subparagraphs for any other taxable year to which the
5 taxable income less than zero (net operating loss) is
6 applied under Section 172 of the Internal Revenue Code or
7 under subparagraph (E) of paragraph (2) of this subsection
8 (e) applied in conjunction with Section 172 of the Internal
9 Revenue Code.

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

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

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

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

1 investment company taxable income;

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

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

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

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

22 (G) Subchapter S corporations. In the case of: (i)
23 a Subchapter S corporation for which there is in effect
24 an election for the taxable year under Section 1362 of
25 the Internal Revenue Code, the taxable income of such
26 corporation determined in accordance with Section

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

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

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

1 non-business income shall be added back and recaptured as
2 business income in the year of the disposition of the asset
3 or business. Such amount shall be apportioned to Illinois
4 using the greater of the apportionment fraction computed
5 for the business under Section 304 of this Act for the
6 taxable year or the average of the apportionment fractions
7 computed for the business under Section 304 of this Act for
8 the taxable year and for the 2 immediately preceding
9 taxable years.

10 (f) Valuation limitation amount.

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

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

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

1 subsection (a) (2) (F) or (c) (2) (H).

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

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

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

25 (C) The Department shall prescribe such
26 regulations as may be necessary to carry out the

1 purposes of this paragraph.

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

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

14 (Source: P.A. 96-45, eff. 7-15-09; 96-120, eff. 8-4-09; 96-198,
15 eff. 8-10-09; 96-328, eff. 8-11-09; 96-520, eff. 8-14-09;
16 96-835, eff. 12-16-09; 96-932, eff. 1-1-11; 96-935, eff.
17 6-21-10; 96-1214, eff. 7-22-10; 97-333, eff. 8-12-11; 97-507,
18 eff. 8-23-11; 97-905, eff. 8-7-12.)

19 Section 999. Effective date. This Act takes effect upon
20 becoming law.