

1 AN ACT concerning State government.

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

4 Section 5. The State Treasurer Act is amended by changing
5 Section 16.6 as follows:

6 (15 ILCS 505/16.6)

7 Sec. 16.6. ABLE account program.

8 (a) As used in this Section:

9 "ABLE account" or "account" means an account established
10 for the purpose of financing certain qualified expenses of
11 eligible individuals as specifically provided for in this
12 Section and authorized by Section 529A of the Internal Revenue
13 Code.

14 "ABLE account plan" or "plan" means the savings account
15 plan provided for in this Section.

16 "Account administrator" means the person selected by the
17 State Treasurer to administer the daily operations of the ABLE
18 account plan and provide marketing, recordkeeping, investment
19 management, and other services for the plan.

20 "Aggregate account balance" means the amount in an account
21 on a particular date or the fair market value of an account on
22 a particular date.

23 "Beneficiary" means the ABLE account owner.

1 "Board" means the Illinois State Board of Investment.

2 "Contracting state" means a state without a qualified ABLE
3 program which has entered into a contract with Illinois to
4 provide residents of the contracting state access to a
5 qualified ABLE program.

6 "Designated representative" means a person who is
7 authorized to act on behalf of an account owner. An account
8 owner is authorized to act on his or her own behalf unless the
9 account owner is a minor or the account owner has been
10 adjudicated to have a disability so that a guardian has been
11 appointed. A designated representative acts in a fiduciary
12 capacity to the account owner. The State Treasurer shall
13 recognize a person as a designated representative without
14 appointment by a court in the following order of priority:

15 (1) The account owner's plenary guardian of the estate,
16 or the account owner's limited guardian of financial or
17 contractual matters. Any guardian acting in this capacity
18 shall not be required to seek court approval for any ABLE
19 qualified distributions.

20 (2) The agent named by the account owner in a property
21 power of attorney recognized as a statutory short form
22 power of attorney for property.

23 (3) Such individual or entity that the account owner so
24 designates in writing, in a manner to be established by the
25 State Treasurer.

26 (4) Such other individual or entity designated by the

1 State Treasurer pursuant to its rules.

2 "Disability certification" has the meaning given to that
3 term under Section 529A of the Internal Revenue Code.

4 "Eligible individual" has the meaning given to that term
5 under Section 529A of the Internal Revenue Code.

6 "Participation agreement" means an agreement to
7 participate in the ABLE account plan between an account owner
8 and the State, through its agencies and the State Treasurer.

9 "Qualified disability expenses" has the meaning given to
10 that term under Section 529A of the Internal Revenue Code.

11 "Qualified withdrawal" or "qualified distribution" means a
12 withdrawal from an ABLE account to pay the qualified disability
13 expenses of the beneficiary of the account.

14 (b) The "Achieving a Better Life Experience" or "ABLE"
15 account program is hereby created and shall be administered by
16 the State Treasurer. The purpose of the ABLE plan is to
17 encourage and assist individuals and families in saving private
18 funds for the purpose of supporting individuals with
19 disabilities to maintain health, independence, and quality of
20 life, and to provide secure funding for disability-related
21 expenses on behalf of designated beneficiaries with
22 disabilities that will supplement, but not supplant, benefits
23 provided through private insurance, federal and State medical
24 and disability insurance, the beneficiary's employment, and
25 other sources. Under the plan, a person may make contributions
26 to an ABLE account to meet the qualified disability expenses of

1 the designated beneficiary of the account. The plan must be
2 operated as an accounts-type plan that permits persons to save
3 for qualified disability expenses incurred by or on behalf of
4 an eligible individual.

5 The State Treasurer shall promote awareness of the
6 availability and advantages of the ABLE account plan as a way
7 to assist individuals and families in saving private funds for
8 the purpose of supporting individuals with disabilities. The
9 cost of these promotional efforts shall not be funded with fees
10 imposed on participants by the State Treasurer.

11 The State Treasurer shall not accept contributions for ABLE
12 accounts under this Section until the Internal Revenue Service
13 has issued its final regulations or interim guidance concerning
14 ABLE accounts.

15 A separate account must be maintained for each beneficiary
16 for whom contributions are made, and no more than one account
17 shall be established per beneficiary. If an ABLE account is
18 established for a designated beneficiary, no account
19 subsequently established for such beneficiary shall be treated
20 as an ABLE account. The preceding sentence shall not apply in
21 the case of an ABLE account established for purposes of a
22 rollover as permitted under Section 529A of the Internal
23 Revenue Code.

24 An ABLE account may be established under this Section for a
25 designated beneficiary who is a resident of Illinois, a
26 resident of a contracting state, or a resident of any other

1 state.

2 Prior to the establishment of an ABLE account, an account
3 owner must provide documentation to the State Treasurer that
4 the account beneficiary is an eligible individual.

5 Annual contributions to an ABLE account on behalf of a
6 beneficiary are subject to the requirements of subsection (b)
7 of Section 529A of the Internal Revenue Code. No person may
8 make a contribution to an ABLE account if such a contribution
9 would result in the aggregate account balance of an ABLE
10 account exceeding the account balance limit authorized under
11 Section 529A of the Internal Revenue Code. The Treasurer shall
12 review the contribution limit at least annually.

13 The State Treasurer shall administer the plan, including
14 accepting and processing applications, maintaining account
15 records, making payments, and undertaking any other necessary
16 tasks to administer the plan, including the appointment of an
17 account administrator. The State Treasurer may contract with
18 one or more third parties to carry out some or all of these
19 administrative duties, including, but not limited to,
20 providing investment management services, incentives, and
21 marketing the plan.

22 In designing and establishing the plan's requirements and
23 in negotiating or entering into contracts with third parties
24 under this Section, the State Treasurer shall consult with the
25 Board. The State Treasurer shall establish fees to be imposed
26 on participants to recover the costs of administration,

1 recordkeeping, and investment management. The State Treasurer
2 must use his or her best efforts to keep these fees as low as
3 possible, consistent with efficient administration.

4 The Illinois ABLE Accounts Administrative Fund is created
5 as a nonappropriated trust fund in the State treasury. The
6 State Treasurer shall use moneys in the Administrative Fund to
7 pay for administrative expenses he or she incurs in the
8 performance of his or her duties under this Section. The State
9 Treasurer shall use moneys in the Administrative Fund to cover
10 administrative expenses incurred under this Section. The
11 Administrative Fund may receive any grants or other moneys
12 designated for administrative purposes from the State, or any
13 unit of federal, state, or local government, or any other
14 person, firm, partnership, or corporation. Any interest
15 earnings that are attributable to moneys in the Administrative
16 Fund must be deposited into the Administrative Fund. Any fees
17 established by the State Treasurer to recover the costs of
18 administration, recordkeeping, and investment management shall
19 be deposited into the Administrative Fund.

20 Subject to appropriation, the State Treasurer may pay
21 administrative costs associated with the creation and
22 management of the plan until sufficient assets are available in
23 the Administrative Fund for that purpose.

24 Applications for accounts, account owner data, account
25 data, and data on beneficiaries of accounts are confidential
26 and exempt from disclosure under the Freedom of Information

1 Act.

2 (c) The State Treasurer may invest the moneys in ABLE
3 accounts in the same manner and in the same types of
4 investments provided for the investment of moneys by the Board.
5 To enhance the safety and liquidity of ABLE accounts, to ensure
6 the diversification of the investment portfolio of accounts,
7 and in an effort to keep investment dollars in the State, the
8 State Treasurer may make a percentage of each account available
9 for investment in participating financial institutions doing
10 business in the State, except that the accounts may be invested
11 without limit in investment options from open-ended investment
12 companies registered under Section 80a of the federal
13 Investment Company Act of 1940. The State Treasurer may
14 contract with one or more third parties for investment
15 management, recordkeeping, or other services in connection
16 with investing the accounts.

17 The account administrator shall annually prepare and adopt
18 a written statement of investment policy that includes a risk
19 management and oversight program. The risk management and
20 oversight program shall be designed to ensure that an effective
21 risk management system is in place to monitor the risk levels
22 of the ABLE plan, to ensure that the risks taken are prudent
23 and properly managed, to provide an integrated process for
24 overall risk management, and to assess investment returns as
25 well as risk to determine if the risks taken are adequately
26 compensated compared to applicable performance benchmarks and

1 standards.

2 The State Treasurer may enter into agreements with other
3 states to either allow Illinois residents to participate in a
4 plan operated by another state or to allow residents of other
5 states to participate in the Illinois ABLE plan.

6 (d) The State Treasurer shall ensure that the plan meets
7 the requirements for an ABLE account under Section 529A of the
8 Internal Revenue Code. The State Treasurer may request a
9 private letter ruling or rulings from the Internal Revenue
10 Service and must take any necessary steps to ensure that the
11 plan qualifies under relevant provisions of federal law.
12 Notwithstanding the foregoing, any determination by the
13 Secretary of the Treasury of the United States that an account
14 was utilized to make non-qualified distributions shall not
15 result in an ABLE account being disregarded as a resource.

16 A person may make contributions to an ABLE account on
17 behalf of a beneficiary. Contributions to an account made by
18 persons other than the account owner become the property of the
19 account owner. Contributions to an account shall be considered
20 as a transfer of assets for fair market value. A person does
21 not acquire an interest in an ABLE account by making
22 contributions to an account. A contribution to any account for
23 a beneficiary must be rejected if the contribution would cause
24 either the aggregate or annual account balance of the account
25 to exceed the limits imposed by Section 529A of the Internal
26 Revenue Code.

1 Any change in account owner must be done in a manner
2 consistent with Section 529A of the Internal Revenue Code.

3 Notice of any proposed amendments to the rules and
4 regulations shall be provided to all owners or their designated
5 representatives prior to adoption. Amendments to rules and
6 regulations shall apply only to contributions made after the
7 adoption of the amendment. Amendments to this Section
8 automatically amend the participation agreement. Any
9 amendments to the operating procedures and policies of the plan
10 shall automatically amend the participation agreement after
11 adoption by the State Treasurer.

12 All assets of the plan, including any contributions to
13 accounts, are held in trust for the exclusive benefit of the
14 account owner and shall be considered spendthrift accounts
15 exempt from all of the owner's creditors. The plan shall
16 provide separate accounting for each designated beneficiary
17 sufficient to satisfy the requirements of paragraph (3) of
18 subsection (b) of Section 529A of the Internal Revenue Code.
19 Assets must be held in either a state trust fund outside the
20 State treasury, to be known as the Illinois ABLE plan trust
21 fund, or in accounts with a third-party provider selected
22 pursuant to this Section. Amounts contributed to ABLE accounts
23 shall not be commingled with State funds and the State shall
24 have no claim to or against, or interest in, such funds.

25 Plan assets are not subject to claims by creditors of the
26 State and are not subject to appropriation by the State.

1 Payments from the Illinois ABLE account plan shall be made
2 under this Section.

3 The assets of ABLE accounts and their income may not be
4 used as security for a loan.

5 The assets of ABLE accounts and their income and operation
6 shall be exempt from all taxation by the State of Illinois and
7 any of its subdivisions to the extent exempt from federal
8 income taxation. The accrued earnings on investments in an ABLE
9 account once disbursed on behalf of a designated beneficiary
10 shall be similarly exempt from all taxation by the State of
11 Illinois and its subdivisions to the extent exempt from federal
12 income taxation, so long as they are used for qualified
13 expenses. Contributions to an ABLE account during the taxable
14 year may be deducted from adjusted gross income as provided in
15 Section 203 of the Illinois Income Tax Act. The provisions of
16 this paragraph are exempt from Section 250 of the Illinois
17 Income Tax Act.

18 Notwithstanding any other provision of law that requires
19 consideration of one or more financial circumstances of an
20 individual, for the purpose of determining eligibility to
21 receive, or the amount of, any assistance or benefit authorized
22 by such provision to be provided to or for the benefit of such
23 individual, any amount, including earnings thereon, in the ABLE
24 account of such individual, any contributions to the ABLE
25 account of the individual, and any distribution for qualified
26 disability expenses shall be disregarded for such purpose with

1 respect to any period during which such individual maintains,
2 makes contributions to, or receives distributions from such
3 ABLE account.

4 (e) The account owner or the designated representative of
5 the account owner may request that a qualified distribution be
6 made for the benefit of the account owner. Qualified
7 distributions shall be made for qualified disability expenses
8 allowed pursuant to Section 529A of the Internal Revenue Code.
9 Qualified distributions must be withdrawn proportionally from
10 contributions and earnings in an account owner's account on the
11 date of distribution as provided in Section 529A of the
12 Internal Revenue Code. Upon the death of a beneficiary, the
13 amount remaining in the beneficiary's account must be
14 distributed pursuant to subsection (f) of Section 529A of the
15 Internal Revenue Code.

16 (f) The State Treasurer may adopt rules to carry out the
17 purposes of this Section. The State Treasurer shall further
18 have the power to issue peremptory rules necessary to ensure
19 that ABLE accounts meet all of the requirements for a qualified
20 state ABLE program under Section 529A of the Internal Revenue
21 Code and any regulations issued by the Internal Revenue
22 Service.

23 (Source: P.A. 99-145, eff. 1-1-16; 99-563, eff. 7-15-16.)

24 Section 10. The Illinois Income Tax Act is amended by
25 changing Section 203 as follows:

1 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

2 Sec. 203. Base income defined.

3 (a) Individuals.

4 (1) In general. In the case of an individual, base
5 income means an amount equal to the taxpayer's adjusted
6 gross income for the taxable year as modified by paragraph
7 (2).

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

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

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

22 (C) An amount equal to the amount received during
23 the taxable year as a recovery or refund of real
24 property taxes paid with respect to the taxpayer's
25 principal residence under the Revenue Act of 1939 and

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

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

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

21 (D-10) For taxable years ending after December 31,
22 1997, an amount equal to any eligible remediation costs
23 that the individual deducted in computing adjusted
24 gross income and for which the individual claims a
25 credit under subsection (1) of Section 201;

26 (D-15) For taxable years 2001 and thereafter, an

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

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

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

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

22 (D-17) An amount equal to the amount otherwise
23 allowed as a deduction in computing base income for
24 interest paid, accrued, or incurred, directly or
25 indirectly, (i) for taxable years ending on or after
26 December 31, 2004, to a foreign person who would be a

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

22 This paragraph shall not apply to the following:

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

1 reporting, to a tax on or measured by net income
2 with respect to such interest; or

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

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

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

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

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

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

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

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

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

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

7 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

22 (D-19) For taxable years ending on or after
23 December 31, 2008, an amount equal to the amount of
24 insurance premium expenses and costs otherwise allowed
25 as a deduction in computing base income, and that were
26 paid, accrued, or incurred, directly or indirectly, to

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

22 (D-20) For taxable years beginning on or after
23 January 1, 2002 and ending on or before December 31,
24 2006, in the case of a distribution from a qualified
25 tuition program under Section 529 of the Internal
26 Revenue Code, other than (i) a distribution from a

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

25 For the purposes of this subparagraph (D-20), a
26 qualified tuition program has made reasonable efforts

1 if it makes disclosures (which may use the term
2 "in-state program" or "in-state plan" and need not
3 specifically refer to Illinois or its qualified
4 programs by name) (i) directly to prospective
5 participants in its offering materials or makes a
6 public disclosure, such as a website posting; and (ii)
7 where applicable, to intermediaries selling the
8 out-of-state program in the same manner that the
9 out-of-state program distributes its offering
10 materials;

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

18 (D-22) For taxable years beginning on or after
19 January 1, 2009, in the case of a nonqualified
20 withdrawal or refund of moneys from a qualified tuition
21 program under Section 529 of the Internal Revenue Code
22 administered by the State that is not used for
23 qualified expenses at an eligible education
24 institution, an amount equal to the contribution
25 component of the nonqualified withdrawal or refund
26 that was previously deducted from base income under

1 subsection (a)(2)(y) of this Section, provided that
2 the withdrawal or refund did not result from the
3 beneficiary's death or disability;

4 (D-23) An amount equal to the credit allowable to
5 the taxpayer under Section 218(a) of this Act,
6 determined without regard to Section 218(c) of this
7 Act;

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

10 (E) For taxable years ending before December 31,
11 2001, any amount included in such total in respect of
12 any compensation (including but not limited to any
13 compensation paid or accrued to a serviceman while a
14 prisoner of war or missing in action) paid to a
15 resident by reason of being on active duty in the Armed
16 Forces of the United States and in respect of any
17 compensation paid or accrued to a resident who as a
18 governmental employee was a prisoner of war or missing
19 in action, and in respect of any compensation paid to a
20 resident in 1971 or thereafter for annual training
21 performed pursuant to Sections 502 and 503, Title 32,
22 United States Code as a member of the Illinois National
23 Guard or, beginning with taxable years ending on or
24 after December 31, 2007, the National Guard of any
25 other state. For taxable years ending on or after
26 December 31, 2001, any amount included in such total in

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

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

26 (G) The valuation limitation amount;

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

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

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

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

26 (L) For taxable years ending after December 31,

1 1983, an amount equal to all social security benefits
2 and railroad retirement benefits included in such
3 total pursuant to Sections 72(r) and 86 of the Internal
4 Revenue Code;

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

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

7 (P) An amount equal to the amount of the deduction
8 used to compute the federal income tax credit for
9 restoration of substantial amounts held under claim of
10 right for the taxable year pursuant to Section 1341 of
11 the Internal Revenue Code or of any itemized deduction
12 taken from adjusted gross income in the computation of
13 taxable income for restoration of substantial amounts
14 held under claim of right for the taxable year;

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

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

22 (S) An amount, to the extent included in adjusted
23 gross income, equal to the amount of a contribution
24 made in the taxable year on behalf of the taxpayer to a
25 medical care savings account established under the
26 Medical Care Savings Account Act or the Medical Care

1 Savings Account Act of 2000 to the extent the
2 contribution is accepted by the account administrator
3 as provided in that Act;

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

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

17 (V) Beginning with tax years ending on or after
18 December 31, 1995 and ending with tax years ending on
19 or before December 31, 2004, an amount equal to the
20 amount paid by a taxpayer who is a self-employed
21 taxpayer, a partner of a partnership, or a shareholder
22 in a Subchapter S corporation for health insurance or
23 long-term care insurance for that taxpayer or that
24 taxpayer's spouse or dependents, to the extent that the
25 amount paid for that health insurance or long-term care
26 insurance may be deducted under Section 213 of the

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

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

23 (X) For taxable year 1999 and thereafter, an amount
24 equal to the amount of any (i) distributions, to the
25 extent includible in gross income for federal income
26 tax purposes, made to the taxpayer because of his or

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

1 this paragraph in gross income for federal income tax
2 purposes. This paragraph is exempt from the provisions
3 of Section 250;

4 (Y) For taxable years beginning on or after January
5 1, 2002 and ending on or before December 31, 2004,
6 moneys contributed in the taxable year to a College
7 Savings Pool account under Section 16.5 of the State
8 Treasurer Act, except that amounts excluded from gross
9 income under Section 529(c)(3)(C)(i) of the Internal
10 Revenue Code shall not be considered moneys
11 contributed under this subparagraph (Y). For taxable
12 years beginning on or after January 1, 2005, a maximum
13 of \$10,000 contributed in the taxable year to (i) a
14 College Savings Pool account under Section 16.5 of the
15 State Treasurer Act or (ii) the Illinois Prepaid
16 Tuition Trust Fund, except that amounts excluded from
17 gross income under Section 529(c)(3)(C)(i) of the
18 Internal Revenue Code shall not be considered moneys
19 contributed under this subparagraph (Y). For purposes
20 of this subparagraph, contributions made by an
21 employer on behalf of an employee, or matching
22 contributions made by an employee, shall be treated as
23 made by the employee. This subparagraph (Y) is exempt
24 from the provisions of Section 250;

25 (Y-5) For taxable years beginning on or after
26 January 1, 2018, a maximum of \$10,000 contributed in

1 the taxable year to an ABLE account under Section 16.6
2 of the State Treasurer Act. This subparagraph (Y-5) is
3 exempt from the provisions of Section 250 of this Act;

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

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

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

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

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

1 0.429); and
2 (ii) for property on which a bonus
3 depreciation deduction of 50% of the adjusted
4 basis was taken, "x" equals "y" multiplied by
5 1.0.

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

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

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

26 The taxpayer is allowed to take the deduction under

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

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

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

8 (CC) 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 that 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 that
23 addition modification. This subparagraph (CC) is
24 exempt from the provisions of Section 250;

25 (DD) 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(a)(2)(D-17) for
16 interest paid, accrued, or incurred, directly or
17 indirectly, to the same person. This subparagraph (DD)
18 is exempt from the provisions of Section 250;

19 (EE) 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(a)(2)(D-18) for
10 intangible expenses and costs paid, accrued, or
11 incurred, directly or indirectly, to the same foreign
12 person. This subparagraph (EE) is exempt from the
13 provisions of Section 250;

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

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

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

9 (b) Corporations.

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

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

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

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

24 (C) In the case of a regulated investment company,
25 an amount equal to the excess of (i) the net long-term

1 capital gain for the taxable year, over (ii) the amount
2 of the capital gain dividends designated as such in
3 accordance with Section 852(b)(3)(C) of the Internal
4 Revenue Code and any amount designated under Section
5 852(b)(3)(D) of the Internal Revenue Code,
6 attributable to the taxable year (this amendatory Act
7 of 1995 (Public Act 89-89) is declarative of existing
8 law and is not a new enactment);

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

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

23 (i) the addition modification relating to the
24 net operating loss carried back or forward to the
25 taxable year from any taxable year ending prior to
26 December 31, 1986 shall be reduced by the amount of

1 addition modification under this subparagraph (E)
2 which related to that net operating loss and which
3 was taken into account in calculating the base
4 income of an earlier taxable year, and

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

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

17 (E-5) For taxable years ending after December 31,
18 1997, an amount equal to any eligible remediation costs
19 that the corporation deducted in computing adjusted
20 gross income and for which the corporation claims a
21 credit under subsection (l) of Section 201;

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

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

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

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

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

19 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

1 of apportionment under Section 304(f).

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

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

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

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

4 This paragraph shall not apply to the following:

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

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

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

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

1 or

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

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

19 (E-14) For taxable years ending on or after
20 December 31, 2008, an amount equal to the amount of
21 insurance premium expenses and costs otherwise allowed
22 as a deduction in computing base income, and that were
23 paid, accrued, or incurred, directly or indirectly, to
24 a person who would be a member of the same unitary
25 business group but for the fact that the person is
26 prohibited under Section 1501(a)(27) from being

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

19 (E-15) For taxable years beginning after December
20 31, 2008, any deduction for dividends paid by a captive
21 real estate investment trust that is allowed to a real
22 estate investment trust under Section 857(b) (2) (B) of
23 the Internal Revenue Code for dividends paid;

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

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

9 (H) In the case of a regulated investment company,
10 an amount equal to the amount of exempt interest
11 dividends as defined in subsection (b) (5) of Section
12 852 of the Internal Revenue Code, paid to shareholders
13 for the taxable year;

14 (I) With the exception of any amounts subtracted
15 under subparagraph (J), an amount equal to the sum of
16 all amounts disallowed as deductions by (i) Sections
17 171(a) (2), and 265(a) (2) and amounts disallowed as
18 interest expense by Section 291(a) (3) of the Internal
19 Revenue Code, and all amounts of expenses allocable to
20 interest and disallowed as deductions by Section
21 265(a) (1) of the Internal Revenue Code; and (ii) for
22 taxable years ending on or after August 13, 1999,
23 Sections 171(a) (2), 265, 280C, 291(a) (3), and
24 832(b) (5) (B) (i) of the Internal Revenue Code, plus,
25 for tax years ending on or after December 31, 2011,
26 amounts disallowed as deductions by Section 45G(e) (3)

1 of the Internal Revenue Code and, for taxable years
2 ending on or after December 31, 2008, any amount
3 included in gross income under Section 87 of the
4 Internal Revenue Code and the policyholders' share of
5 tax-exempt interest of a life insurance company under
6 Section 807(a)(2)(B) of the Internal Revenue Code (in
7 the case of a life insurance company with gross income
8 from a decrease in reserves for the tax year) or
9 Section 807(b)(1)(B) of the Internal Revenue Code (in
10 the case of a life insurance company allowed a
11 deduction for an increase in reserves for the tax
12 year); the provisions of this subparagraph are exempt
13 from the provisions of Section 250;

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

23 (K) An amount equal to those dividends included in
24 such total which were paid by a corporation which
25 conducts business operations in a River Edge
26 Redevelopment Zone or zones created under the River

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

5 (L) 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 (K) of paragraph 2 of this subsection
12 shall not be eligible for the deduction provided under
13 this subparagraph (L);

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

1 for this purpose the original basis of such property on
2 the date that it was placed in service in the River
3 Edge Redevelopment Zone. The subtraction modification
4 available to taxpayer in any year under this subsection
5 shall be that portion of the total interest paid by the
6 borrower with respect to such loan attributable to the
7 eligible property as calculated under the previous
8 sentence. This subparagraph (M) is exempt from the
9 provisions of Section 250;

10 (M-1) For any taxpayer that is a financial
11 organization within the meaning of Section 304(c) of
12 this Act, an amount included in such total as interest
13 income from a loan or loans made by such taxpayer to a
14 borrower, to the extent that such a loan is secured by
15 property which is eligible for the High Impact Business
16 Investment Credit. To determine the portion of a loan
17 or loans that is secured by property eligible for a
18 Section 201(h) investment credit to the borrower, the
19 entire principal amount of the loan or loans between
20 the taxpayer and the borrower should be divided into
21 the basis of the Section 201(h) investment credit
22 property which secures the loan or loans, using for
23 this purpose the original basis of such property on the
24 date that it was placed in service in a federally
25 designated Foreign Trade Zone or Sub-Zone located in
26 Illinois. No taxpayer that is eligible for the

1 deduction provided in subparagraph (M) of paragraph
2 (2) of this subsection shall be eligible for the
3 deduction provided under this subparagraph (M-1). The
4 subtraction modification available to taxpayers in any
5 year under this subsection shall be that portion of the
6 total interest paid by the borrower with respect to
7 such loan attributable to the eligible property as
8 calculated under the previous sentence;

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

20 (O) An amount equal to: (i) 85% for taxable years
21 ending on or before December 31, 1992, or, a percentage
22 equal to the percentage allowable under Section
23 243(a)(1) of the Internal Revenue Code of 1986 for
24 taxable years ending after December 31, 1992, of the
25 amount by which dividends included in taxable income
26 and received from a corporation that is not created or

1 organized under the laws of the United States or any
2 state or political subdivision thereof, including, for
3 taxable years ending on or after December 31, 1988,
4 dividends received or deemed received or paid or deemed
5 paid under Sections 951 through 965 of the Internal
6 Revenue Code, exceed the amount of the modification
7 provided under subparagraph (G) of paragraph (2) of
8 this subsection (b) which is related to such dividends,
9 and including, for taxable years ending on or after
10 December 31, 2008, dividends received from a captive
11 real estate investment trust; plus (ii) 100% of the
12 amount by which dividends, included in taxable income
13 and received, including, for taxable years ending on or
14 after December 31, 1988, dividends received or deemed
15 received or paid or deemed paid under Sections 951
16 through 964 of the Internal Revenue Code and including,
17 for taxable years ending on or after December 31, 2008,
18 dividends received from a captive real estate
19 investment trust, from any such corporation specified
20 in clause (i) that would but for the provisions of
21 Section 1504 (b) (3) of the Internal Revenue Code be
22 treated as a member of the affiliated group which
23 includes the dividend recipient, exceed the amount of
24 the modification provided under subparagraph (G) of
25 paragraph (2) of this subsection (b) which is related
26 to such dividends. This subparagraph (O) is exempt from

1 the provisions of Section 250 of this Act;

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

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

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

23 (S) For taxable years ending on or after December
24 31, 1997, in the case of a Subchapter S corporation, an
25 amount equal to all amounts of income allocable to a
26 shareholder subject to the Personal Property Tax

1 Replacement Income Tax imposed by subsections (c) and
2 (d) of Section 201 of this Act, including amounts
3 allocable to organizations exempt from federal income
4 tax by reason of Section 501(a) of the Internal Revenue
5 Code. This subparagraph (S) is exempt from the
6 provisions of Section 250;

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

17 (U) 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 (E-10), 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 (E-10), 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 (U) is exempt from the
7 provisions of Section 250;

8 (V) 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, (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, and (iii) any insurance premium
24 income (net of deductions allocable thereto) taken
25 into account for the taxable year with respect to a
26 transaction with a taxpayer that is required to make an

1 addition modification with respect to such transaction
2 under Section 203(a)(2)(D-19), Section
3 203(b)(2)(E-14), Section 203(c)(2)(G-14), or Section
4 203(d)(2)(D-9), but not to exceed the amount of that
5 addition modification. This subparagraph (V) is exempt
6 from the provisions of Section 250;

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

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

22 (Y) For taxable years ending on or after December
23 31, 2011, in the case of a taxpayer who was required to
24 add back any insurance premiums under Section
25 203(b) (2) (E-14), such taxpayer may elect to subtract
26 that part of a reimbursement received from the

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

11 (Z) The difference between the nondeductible
12 controlled foreign corporation dividends under Section
13 965(e) (3) of the Internal Revenue Code over the taxable
14 income of the taxpayer, computed without regard to
15 Section 965(e) (2) (A) of the Internal Revenue Code, and
16 without regard to any net operating loss deduction.
17 This subparagraph (Z) is exempt from the provisions of
18 Section 250.

19 (3) Special rule. For purposes of paragraph (2) (A),
20 "gross income" in the case of a life insurance company, for
21 tax years ending on and after December 31, 1994, and prior
22 to December 31, 2011, shall mean the gross investment
23 income for the taxable year and, for tax years ending on or
24 after December 31, 2011, shall mean all amounts included in
25 life insurance gross income under Section 803(a) (3) of the
26 Internal Revenue Code.

1 (c) Trusts and estates.

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

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

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

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

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

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

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

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

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

24 For taxable years in which there is a net operating
25 loss carryback or carryforward from more than one other
26 taxable year ending prior to December 31, 1986, the

1 addition modification provided in this subparagraph
2 (E) shall be the sum of the amounts computed
3 independently under the preceding provisions of this
4 subparagraph (E) for each such taxable year;

5 (F) For taxable years ending on or after January 1,
6 1989, an amount equal to the tax deducted pursuant to
7 Section 164 of the Internal Revenue Code if the trust
8 or estate is claiming the same tax for purposes of the
9 Illinois foreign tax credit under Section 601 of this
10 Act;

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

15 (G-5) For taxable years ending after December 31,
16 1997, an amount equal to any eligible remediation costs
17 that the trust or estate deducted in computing adjusted
18 gross income and for which the trust or estate claims a
19 credit under subsection (1) of Section 201;

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

25 (G-11) If the taxpayer sells, transfers, abandons,
26 or otherwise disposes of property for which the

1 taxpayer was required in any taxable year to make an
2 addition modification under subparagraph (G-10), then
3 an amount equal to the aggregate amount of the
4 deductions taken in all taxable years under
5 subparagraph (R) with respect to that property.

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

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

16 (G-12) An amount equal to the amount otherwise
17 allowed as a deduction in computing base income for
18 interest paid, accrued, or incurred, directly or
19 indirectly, (i) for taxable years ending on or after
20 December 31, 2004, to a foreign person who would be a
21 member of the same unitary business group but for the
22 fact that the foreign person's business activity
23 outside the United States is 80% or more of the foreign
24 person's total business activity and (ii) for taxable
25 years ending on or after December 31, 2008, to a person
26 who would be a member of the same unitary business

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

17 This paragraph shall not apply to the following:

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

24 (ii) an item of interest paid, accrued, or
25 incurred, directly or indirectly, to a person if
26 the taxpayer can establish, based on a

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

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

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

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

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

26 Nothing in this subsection shall preclude the

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

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

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

1 trade secrets, and similar types of intangible assets.

2 This paragraph shall not apply to the following:

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

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

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

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

26 (iii) any item of intangible expense or cost

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

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

17 (G-14) For taxable years ending on or after
18 December 31, 2008, an amount equal to the amount of
19 insurance premium expenses and costs otherwise allowed
20 as a deduction in computing base income, and that were
21 paid, accrued, or incurred, directly or indirectly, to
22 a person who would be a member of the same unitary
23 business group but for the fact that the person is
24 prohibited under Section 1501(a)(27) from being
25 included in the unitary business group because he or
26 she is ordinarily required to apportion business

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

17 (G-15) An amount equal to the credit allowable to
18 the taxpayer under Section 218(a) of this Act,
19 determined without regard to Section 218(c) of this
20 Act;

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

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

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

8 (I) The valuation limitation amount;

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

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

23 (L) With the exception of any amounts subtracted
24 under subparagraph (K), an amount equal to the sum of
25 all amounts disallowed as deductions by (i) Sections
26 171(a) (2) and 265(a) (2) of the Internal Revenue Code,

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

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

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

24 (O) An amount equal to those dividends included in
25 such total that were paid by a corporation that
26 conducts business operations in a federally designated

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

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

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

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

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

25 (1) "y" equals the amount of the depreciation
26 deduction taken for the taxable year on the

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

6 (2) for taxable years ending on or before
7 December 31, 2005, "x" equals "y" multiplied by 30
8 and then divided by 70 (or "y" multiplied by
9 0.429); and

10 (3) for taxable years ending after December
11 31, 2005:

12 (i) for property on which a bonus
13 depreciation deduction of 30% of the adjusted
14 basis was taken, "x" equals "y" multiplied by
15 30 and then divided by 70 (or "y" multiplied by
16 0.429); and

17 (ii) for property on which a bonus
18 depreciation deduction of 50% of the adjusted
19 basis was taken, "x" equals "y" multiplied by
20 1.0.

21 The aggregate amount deducted under this
22 subparagraph in all taxable years for any one piece of
23 property may not exceed the amount of the bonus
24 depreciation deduction taken on that property on the
25 taxpayer's federal income tax return under subsection
26 (k) of Section 168 of the Internal Revenue Code. This

1 subparagraph (R) is exempt from the provisions of
2 Section 250;

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

8 If the taxpayer continues to own property through
9 the last day of the last tax year for which the
10 taxpayer may claim a depreciation deduction for
11 federal income tax purposes and 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 The taxpayer is allowed to take the deduction under
16 this subparagraph only once with respect to any one
17 piece of property.

18 This subparagraph (S) is exempt from the
19 provisions of Section 250;

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

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

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

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

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

26 (W) in the case of an estate, an amount equal to

1 all amounts included in such total pursuant to the
2 provisions of Section 111 of the Internal Revenue Code
3 as a recovery of items previously deducted by the
4 decedent from adjusted gross income in the computation
5 of taxable income. This subparagraph (W) is exempt from
6 Section 250;

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

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

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

8 (d) Partnerships.

9 (1) In general. In the case of a partnership, 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. The taxable income referred to in
13 paragraph (1) shall be modified by adding thereto the sum
14 of the following amounts:

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

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

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

25 (D) An amount equal to the amount of the capital

1 gain deduction allowable under the Internal Revenue
2 Code, to the extent deducted from gross income in the
3 computation of taxable income;

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

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

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

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

26 (D-7) An amount equal to the amount otherwise

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

1 This paragraph shall not apply to the following:

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

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

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

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

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

1 terms and the principal purpose for the payment is
2 not federal or Illinois tax avoidance; or

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

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

19 (D-8) An amount equal to the amount of intangible
20 expenses and costs otherwise allowed as a deduction in
21 computing base income, and that were paid, accrued, or
22 incurred, directly or indirectly, (i) for taxable
23 years ending on or after December 31, 2004, to a
24 foreign person who would be a member of the same
25 unitary business group but for the fact that the
26 foreign person's business activity outside the United

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

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

12 This paragraph shall not apply to the following:

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

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

25 (a) the person during the same taxable
26 year paid, accrued, or incurred, the

1 intangible expense or cost to a person that is
2 not a related member, and

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

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

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

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

1 (D-10) An amount equal to the credit allowable to
2 the taxpayer under Section 218(a) of this Act,
3 determined without regard to Section 218(c) of this
4 Act;

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

7 (E) The valuation limitation amount;

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

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

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

1 this subparagraph (H) is exempt from the provisions of
2 Section 250;

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

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

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

12 (M) 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 (M);

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

26 (O) 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 (O) is exempt from the provisions of
9 Section 250;

10 (P) 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 (D-5), 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 (D-5), 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 (P) is exempt from the
26 provisions of Section 250;

1 (Q) 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 (Q) is exempt
17 from Section 250;

18 (R) 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 that 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(d)(2)(D-7) for interest
9 paid, accrued, or incurred, directly or indirectly, to
10 the same person. This subparagraph (R) is exempt from
11 Section 250;

12 (S) 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(d)(2)(D-8) for
3 intangible expenses and costs paid, accrued, or
4 incurred, directly or indirectly, to the same person.
5 This subparagraph (S) is exempt from Section 250; and

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

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

22 (1) In general. Subject to the provisions of paragraph
23 (2) and subsection (b) (3), for purposes of this Section
24 and Section 803(e), a taxpayer's gross income, adjusted
25 gross income, or taxable income for the taxable year shall

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

1 (e) applied in conjunction with Section 172 of the Internal
2 Revenue Code.

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

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

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

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

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

25 (E) Consolidated corporations. In the case of a
26 corporation which is a member of an affiliated group of

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

11 (F) Cooperatives. In the case of a cooperative
12 corporation or association, the taxable income of such
13 organization determined in accordance with the
14 provisions of Section 1381 through 1388 of the Internal
15 Revenue Code, but without regard to the prohibition
16 against offsetting losses from patronage activities
17 against income from nonpatronage activities; except
18 that a cooperative corporation or association may make
19 an election to follow its federal income tax treatment
20 of patronage losses and nonpatronage losses. In the
21 event such election is made, such losses shall be
22 computed and carried over in a manner consistent with
23 subsection (a) of Section 207 of this Act and
24 apportioned by the apportionment factor reported by
25 the cooperative on its Illinois income tax return filed
26 for the taxable year in which the losses are incurred.

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

15 (G) Subchapter S corporations. In the case of: (i)
16 a Subchapter S corporation for which there is in effect
17 an election for the taxable year under Section 1362 of
18 the Internal Revenue Code, the taxable income of such
19 corporation determined in accordance with Section
20 1363(b) of the Internal Revenue Code, except that
21 taxable income shall take into account those items
22 which are required by Section 1363(b)(1) of the
23 Internal Revenue Code to be separately stated; and (ii)
24 a Subchapter S corporation for which there is in effect
25 a federal election to opt out of the provisions of the
26 Subchapter S Revision Act of 1982 and have applied

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

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

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

1 the taxable year and for the 2 immediately preceding
2 taxable years.

3 (f) Valuation limitation amount.

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

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

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

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

21 (A) If the fair market value of property referred
22 to in paragraph (1) was readily ascertainable on August
23 1, 1969, the pre-August 1, 1969 appreciation amount for
24 such property is the lesser of (i) the excess of such
25 fair market value over the taxpayer's basis (for

1 determining gain) for such property on that date
2 (determined under the Internal Revenue Code as in
3 effect on that date), or (ii) the total gain realized
4 and reportable for federal income tax purposes in
5 respect of the sale, exchange or other disposition of
6 such property.

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

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

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

24 (h) Legislative intention. Except as expressly provided by

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

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

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