



Sen. James F. Clayborne Jr.

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1 AMENDMENT TO SENATE BILL 507

2 AMENDMENT NO. _____. Amend Senate Bill 507, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The State Treasurer Act is amended by changing
6 Section 16.5 as follows:

7 (15 ILCS 505/16.5)

8 Sec. 16.5. College Savings Pool. The State Treasurer may
9 establish and administer a College Savings Pool to supplement
10 and enhance the investment opportunities otherwise available
11 to persons seeking to finance the costs of higher education.
12 The State Treasurer, in administering the College Savings Pool,
13 may receive moneys paid into the pool by a participant and may
14 serve as the fiscal agent of that participant for the purpose
15 of holding and investing those moneys.

16 "Participant", as used in this Section, means any person
17 who makes investments in the pool. "Designated beneficiary", as
18 used in this Section, means any person on whose behalf an
19 account is established in the College Savings Pool by a
20 participant. Both in-state and out-of-state persons may be
21 participants and designated beneficiaries in the College
22 Savings Pool.

23 New accounts in the College Savings Pool may ~~shall~~ be
24 processed through participating financial institutions.

1 "Participating financial institution", as used in this
2 Section, means any financial institution insured by the Federal
3 Deposit Insurance Corporation and lawfully doing business in
4 the State of Illinois and any credit union approved by the
5 State Treasurer and lawfully doing business in the State of
6 Illinois that agrees to process new accounts in the College
7 Savings Pool. Participating financial institutions may charge
8 a processing fee to participants to open an account in the pool
9 that shall not exceed \$30 until the year 2001. Beginning in
10 2001 and every year thereafter, the maximum fee limit shall be
11 adjusted by the Treasurer based on the Consumer Price Index for
12 the North Central Region as published by the United States
13 Department of Labor, Bureau of Labor Statistics for the
14 immediately preceding calendar year. Every contribution
15 received by a financial institution for investment in the
16 College Savings Pool shall be transferred from the financial
17 institution to a location selected by the State Treasurer
18 within one business day following the day that the funds must
19 be made available in accordance with federal law. All
20 communications from the State Treasurer to participants shall
21 reference the participating financial institution at which the
22 account was processed.

23 The Treasurer may invest the moneys in the College Savings
24 Pool in the same manner, in the same types of investments, and
25 subject to the same limitations provided for the investment of
26 moneys by the Illinois State Board of Investment. To enhance
27 the safety and liquidity of the College Savings Pool, to ensure
28 the diversification of the investment portfolio of the pool,
29 and in an effort to keep investment dollars in the State of
30 Illinois, the State Treasurer may ~~shall~~ make a percentage of
31 each account available for investment in participating
32 financial institutions doing business in the State. The State
33 Treasurer may ~~shall~~ deposit with the participating financial
34 institution at which the account was processed the following

1 percentage of each account at a prevailing rate offered by the
2 institution, provided that the deposit is federally insured or
3 fully collateralized and the institution accepts the deposit:
4 10% of the total amount of each account for which the current
5 age of the beneficiary is less than 7 years of age, 20% of the
6 total amount of each account for which the beneficiary is at
7 least 7 years of age and less than 12 years of age, and 50% of
8 the total amount of each account for which the current age of
9 the beneficiary is at least 12 years of age. ~~The State~~
10 ~~Treasurer shall adjust each account at least annually to ensure~~
11 ~~compliance with this Section.~~ The Treasurer shall develop,
12 publish, and implement an investment policy covering the
13 investment of the moneys in the College Savings Pool. The
14 policy shall be published (i) at least once each year in at
15 least one newspaper of general circulation in both Springfield
16 and Chicago and (ii) each year as part of the audit of the
17 College Savings Pool by the Auditor General, which shall be
18 distributed to all participants. The Treasurer shall notify all
19 participants in writing, and the Treasurer shall publish in a
20 newspaper of general circulation in both Chicago and
21 Springfield, any changes to the previously published
22 investment policy at least 30 calendar days before implementing
23 the policy. Any investment policy adopted by the Treasurer
24 shall be reviewed and updated if necessary within 90 days
25 following the date that the State Treasurer takes office.

26 Participants shall be required to use moneys distributed
27 from the College Savings Pool for qualified expenses at
28 eligible educational institutions. "Qualified expenses", as
29 used in this Section, means the following: (i) tuition, fees,
30 and the costs of books, supplies, and equipment required for
31 enrollment or attendance at an eligible educational
32 institution and (ii) certain room and board expenses incurred
33 while attending an eligible educational institution at least
34 half-time. "Eligible educational institutions", as used in

1 this Section, means public and private colleges, junior
2 colleges, graduate schools, and certain vocational
3 institutions that are described in Section 481 of the Higher
4 Education Act of 1965 (20 U.S.C. 1088) and that are eligible to
5 participate in Department of Education student aid programs. A
6 student shall be considered to be enrolled at least half-time
7 if the student is enrolled for at least half the full-time
8 academic work load for the course of study the student is
9 pursuing as determined under the standards of the institution
10 at which the student is enrolled. Distributions made from the
11 pool for qualified expenses shall be made directly to the
12 eligible educational institution, directly to a vendor, or in
13 the form of a check payable to both the beneficiary and the
14 institution or vendor. Any moneys that are distributed in any
15 other manner or that are used for expenses other than qualified
16 expenses at an eligible educational institution shall be
17 subject to a penalty of 10% of the earnings unless the
18 beneficiary dies, becomes disabled, or receives a scholarship
19 that equals or exceeds the distribution. Penalties shall be
20 withheld at the time the distribution is made.

21 The Treasurer shall limit the contributions that may be
22 made on behalf of a designated beneficiary based on the
23 limitations established by the Internal Revenue Service. ~~an~~
24 ~~actuarial estimate of what is required to pay tuition, fees,~~
25 ~~and room and board for 5 undergraduate years at the highest~~
26 ~~cost eligible educational institution.~~ The contributions made
27 on behalf of a beneficiary who is also a beneficiary under the
28 Illinois Prepaid Tuition Program shall be further restricted to
29 ensure that the contributions in both programs combined do not
30 exceed the limit established for the College Savings Pool. The
31 Treasurer shall provide the Illinois Student Assistance
32 Commission each year at a time designated by the Commission, an
33 electronic report of all participant accounts in the
34 Treasurer's College Savings Pool, listing total contributions

1 and disbursements from each individual account during the
2 previous calendar year. As soon thereafter as is possible
3 following receipt of the Treasurer's report, the Illinois
4 Student Assistance Commission shall, in turn, provide the
5 Treasurer with an electronic report listing those College
6 Savings Pool participants who also participate in the State's
7 prepaid tuition program, administered by the Commission. The
8 Commission shall be responsible for filing any combined tax
9 reports regarding State qualified savings programs required by
10 the United States Internal Revenue Service. The Treasurer shall
11 work with the Illinois Student Assistance Commission to
12 coordinate the marketing of the College Savings Pool and the
13 Illinois Prepaid Tuition Program when considered beneficial by
14 the Treasurer and the Director of the Illinois Student
15 Assistance Commission. The Treasurer's office shall not
16 publicize or otherwise market the College Savings Pool or
17 accept any moneys into the College Savings Pool prior to March
18 1, 2000. The Treasurer shall provide a separate accounting for
19 each designated beneficiary to each participant, the Illinois
20 Student Assistance Commission, and the participating financial
21 institution at which the account was processed. No interest in
22 the program may be pledged as security for a loan.

23 The assets of the College Savings Pool and its income and
24 operation shall be exempt from all taxation by the State of
25 Illinois and any of its subdivisions. The accrued earnings on
26 investments in the Pool once disbursed on behalf of a
27 designated beneficiary shall be similarly exempt from all
28 taxation by the State of Illinois and its subdivisions, so long
29 as they are used for qualified expenses. Contributions to a
30 College Savings Pool account during the taxable year may be
31 deducted from adjusted gross income as provided in Section 203
32 of the Illinois Income Tax Act. The provisions of this
33 paragraph are exempt from Section 250 of the Illinois Income
34 Tax Act.

1 The Treasurer shall adopt rules he or she considers
2 necessary for the efficient administration of the College
3 Savings Pool. The rules shall provide whatever additional
4 parameters and restrictions are necessary to ensure that the
5 College Savings Pool meets all of the requirements for a
6 qualified state tuition program under Section 529 of the
7 Internal Revenue Code (26 U.S.C. 529). The rules shall provide
8 for the administration expenses of the pool to be paid from its
9 earnings and for the investment earnings in excess of the
10 expenses and all moneys collected as penalties to be credited
11 or paid monthly to the several participants in the pool in a
12 manner which equitably reflects the differing amounts of their
13 respective investments in the pool and the differing periods of
14 time for which those amounts were in the custody of the pool.
15 Also, the rules shall require the maintenance of records that
16 enable the Treasurer's office to produce a report for each
17 account in the pool at least annually that documents the
18 account balance and investment earnings. Notice of any proposed
19 amendments to the rules and regulations shall be provided to
20 all participants prior to adoption. Amendments to rules and
21 regulations shall apply only to contributions made after the
22 adoption of the amendment.

23 Upon creating the College Savings Pool, the State Treasurer
24 shall give bond with 2 or more sufficient sureties, payable to
25 and for the benefit of the participants in the College Savings
26 Pool, in the penal sum of \$1,000,000, conditioned upon the
27 faithful discharge of his or her duties in relation to the
28 College Savings Pool.

29 (Source: P.A. 92-16, eff. 6-28-01; 92-439, eff. 8-17-01;
30 92-626, eff. 7-11-02; 93-812, eff. 1-1-05.)

31 Section 10. The Illinois Income Tax Act is amended by
32 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
26 for which a deduction was previously taken under
27 subparagraph (L) of this paragraph (2) prior to July 1,
28 1991, the retrospective application date of Article 4
29 of Public Act 87-17. In the case of multi-unit or
30 multi-use structures and farm dwellings, the taxes on
31 the taxpayer's principal residence shall be that
32 portion of the total taxes for the entire property
33 which is attributable to such principal residence;

34 (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 adjusted gross income;

4 (D-5) An amount, to the extent not included in
5 adjusted gross income, equal to the amount of money
6 withdrawn by the taxpayer in the taxable year from a
7 medical care savings account and the interest earned on
8 the account in the taxable year of a withdrawal
9 pursuant to subsection (b) of Section 20 of the Medical
10 Care Savings Account Act or subsection (b) of Section
11 20 of the Medical Care Savings Account Act of 2000;

12 (D-10) For taxable years ending after December 31,
13 1997, an amount equal to any eligible remediation costs
14 that the individual deducted in computing adjusted
15 gross income and for which the individual claims a
16 credit under subsection (l) of Section 201;

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

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

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

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

20 This paragraph shall not apply to the following:

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

27 (ii) an item of interest paid, accrued, or
28 incurred, directly or indirectly, to a foreign
29 person if the taxpayer can establish, based on a
30 preponderance of the evidence, both of the
31 following:

32 (a) the foreign person, during the same
33 taxable year, paid, accrued, or incurred, the
34 interest to a person that is not a related

1 member, and

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

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

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

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

32 (D-18) For taxable years ending on or after
33 December 31, 2004, an amount equal to the amount of
34 intangible expenses and costs otherwise allowed as a

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

1 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 foreign
6 person who is subject in a foreign country or
7 state, other than a state which requires mandatory
8 unitary reporting, to a tax on or measured by net
9 income with respect 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 foreign person during the same
16 taxable 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 foreign person did not have as
22 a 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
27 paid, accrued, or incurred, directly or
28 indirectly, from a transaction with a foreign
29 person if the taxpayer establishes by clear and
30 convincing evidence, that the adjustments are
31 unreasonable; or if the taxpayer and the Director
32 agree in writing to the application or use of an
33 alternative method of apportionment under Section
34 304(f);

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

10 (D-20) For taxable years beginning on or after
11 January 1, 2002 and ending on or before December 31,
12 2005, in the case of a distribution from a qualified
13 tuition program under Section 529 of the Internal
14 Revenue Code, other than (i) a distribution from a
15 College Savings Pool created under Section 16.5 of the
16 State Treasurer Act or (ii) a distribution from the
17 Illinois Prepaid Tuition Trust Fund, an amount equal to
18 the amount excluded from gross income under Section
19 529(c)(3)(B). For taxable years beginning on or after
20 January 1, 2006, in the case of a distribution from a
21 qualified tuition program under Section 529 of the
22 Internal Revenue Code, other than (i) a distribution
23 from a College Savings Pool created under Section 16.5
24 of the State Treasurer Act, (ii) a distribution from
25 the Illinois Prepaid Tuition Trust Fund, or (iii) a
26 distribution from a qualified tuition program under
27 Section 529 of the Internal Revenue Code that (I)
28 adopts and determines that its offering materials
29 comply with the College Savings Plans Network's
30 disclosure principles and (II) has made reasonable
31 efforts to inform in-state residents of the existence
32 of in-state qualified tuition programs by informing
33 Illinois residents directly and, where applicable, to
34 inform financial intermediaries distributing the

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

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

17 (D-21) For taxable years beginning on or after
18 January 1, 2006, in the case of transfer of moneys from
19 a qualified tuition program under Section 529 of the
20 Internal Revenue Code that is administered by the State
21 to an out-of-state program, an amount equal to the
22 amount of moneys previously deducted from base income
23 under subsection (a)(2)(Y) of this Section.

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

26 (E) For taxable years ending before December 31,
27 2001, any amount included in such total in respect of
28 any compensation (including but not limited to any
29 compensation paid or accrued to a serviceman while a
30 prisoner of war or missing in action) paid to a
31 resident by reason of being on active duty in the Armed
32 Forces of the United States and in respect of any
33 compensation paid or accrued to a resident who as a
34 governmental employee was a prisoner of war or missing

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

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

30 (G) The valuation limitation amount;

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

34 (I) An amount equal to all amounts included in such

1 total pursuant to the provisions of Section 111 of the
2 Internal Revenue Code as a recovery of items previously
3 deducted from adjusted gross income in the computation
4 of taxable income;

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

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

20 (L) For taxable years ending after December 31,
21 1983, an amount equal to all social security benefits
22 and railroad retirement benefits included in such
23 total pursuant to Sections 72(r) and 86 of the Internal
24 Revenue Code;

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

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

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

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

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

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

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

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

1 as provided in that Act;

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

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

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

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

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

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

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

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

30 (Z) For taxable years 2001 and thereafter, for the
31 taxable year in which the bonus depreciation deduction
32 (30% of the adjusted basis of the qualified property)
33 is taken on the taxpayer's federal income tax return
34 under subsection (k) of Section 168 of the Internal

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

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

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

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

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

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

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

33 (CC) The amount of (i) any interest income (net of
34 the deductions allocable thereto) taken into account

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

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

27 (EE) An amount equal to the income from intangible
28 property taken into account for the taxable year (net
29 of the deductions allocable thereto) with respect to
30 transactions with a foreign person who would be a
31 member of the taxpayer's unitary business group but for
32 the fact that the foreign person's business activity
33 outside the United States is 80% or more of that
34 person's total business activity, but not to exceed the

1 addition modification required to be made for the same
2 taxable year under Section 203(a)(2)(D-18) for
3 intangible expenses and costs paid, accrued, or
4 incurred, directly or indirectly, to the same foreign
5 person.

6 (b) Corporations.

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

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

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

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 taxable income for the taxable year;

21 (C) In the case of a regulated investment company,
22 an amount equal to the excess of (i) the net long-term
23 capital gain for the taxable year, over (ii) the amount
24 of the capital gain dividends designated as such in
25 accordance with Section 852(b)(3)(C) of the Internal
26 Revenue Code and any amount designated under Section
27 852(b)(3)(D) of the Internal Revenue Code,
28 attributable to the taxable year (this amendatory Act
29 of 1995 (Public Act 89-89) is declarative of existing
30 law and is not a new enactment);

31 (D) The amount of any net operating loss deduction
32 taken in arriving at taxable income, other than a net
33 operating loss carried forward from a taxable year

1 ending prior to December 31, 1986;

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

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

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

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

32 (E-5) For taxable years ending after December 31,
33 1997, an amount equal to any eligible remediation costs
34 that the corporation deducted in computing adjusted

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

3 (E-10) For taxable years 2001 and thereafter, an
4 amount equal to the bonus depreciation deduction (30%
5 of the adjusted basis of the qualified property) 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; and

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

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

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

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

7 This paragraph shall not apply to the following:

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

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

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

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

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

1 not federal or Illinois tax avoidance; or

2 (iv) an item of interest paid, accrued, or
3 incurred, directly or indirectly, to a foreign
4 person if the taxpayer establishes by clear and
5 convincing evidence that the adjustments are
6 unreasonable; or if the taxpayer and the Director
7 agree in writing to the application or use of an
8 alternative method of apportionment under Section
9 304(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-13) For taxable years ending on or after
20 December 31, 2004, an amount equal to the amount of
21 intangible expenses and costs otherwise allowed as a
22 deduction in computing base income, and that were paid,
23 accrued, or incurred, directly or indirectly, 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
27 States is 80% or more of that person's total business
28 activity. The addition modification required by this
29 subparagraph shall be reduced to the extent that
30 dividends were included in base income of the unitary
31 group for the same taxable year and received by the
32 taxpayer or by a member of the taxpayer's unitary
33 business group (including amounts included in gross
34 income pursuant to Sections 951 through 964 of the

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

23 This paragraph shall not apply to the following:

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

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

1 following:

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

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

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

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

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

33 (F) An amount equal to the amount of any tax
34 imposed by this Act which was refunded to the taxpayer

1 and included in such total for the taxable year;

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

4 (H) In the case of a regulated investment company,
5 an amount equal to the amount of exempt interest
6 dividends as defined in subsection (b) (5) of Section
7 852 of the Internal Revenue Code, paid to shareholders
8 for the taxable year;

9 (I) With the exception of any amounts subtracted
10 under subparagraph (J), an amount equal to the sum of
11 all amounts disallowed as deductions by (i) Sections
12 171(a) (2), and 265(a)(2) and amounts disallowed as
13 interest expense by Section 291(a)(3) of the Internal
14 Revenue Code, as now or hereafter amended, and all
15 amounts of expenses allocable to interest and
16 disallowed as deductions by Section 265(a)(1) of the
17 Internal Revenue Code, as now or hereafter amended; and
18 (ii) for taxable years ending on or after August 13,
19 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and
20 832(b)(5)(B)(i) of the Internal Revenue Code; the
21 provisions of this subparagraph are exempt from the
22 provisions of Section 250;

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

32 (K) An amount equal to those dividends included in
33 such total which were paid by a corporation which
34 conducts business operations in an Enterprise Zone or

1 zones created under the Illinois Enterprise Zone Act
2 and conducts substantially all of its operations in an
3 Enterprise Zone or zones;

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

13 (M) For any taxpayer that is a financial
14 organization within the meaning of Section 304(c) of
15 this Act, an amount included in such total as interest
16 income from a loan or loans made by such taxpayer to a
17 borrower, to the extent that such a loan is secured by
18 property which is eligible for the Enterprise Zone
19 Investment Credit. To determine the portion of a loan
20 or loans that is secured by property eligible for a
21 Section 201(f) investment credit to the borrower, the
22 entire principal amount of the loan or loans between
23 the taxpayer and the borrower should be divided into
24 the basis of the Section 201(f) investment credit
25 property which secures the loan or loans, using for
26 this purpose the original basis of such property on the
27 date that it was placed in service in the Enterprise
28 Zone. The subtraction modification available to
29 taxpayer in any year under this subsection shall be
30 that portion of the total interest paid by the borrower
31 with respect to such loan attributable to the eligible
32 property as calculated under the previous sentence;

33 (M-1) For any taxpayer that is a financial
34 organization within the meaning of Section 304(c) of

1 this Act, an amount included in such total as interest
2 income from a loan or loans made by such taxpayer to a
3 borrower, to the extent that such a loan is secured by
4 property which is eligible for the High Impact Business
5 Investment Credit. To determine the portion of a loan
6 or loans that is secured by property eligible for a
7 Section 201(h) investment credit to the borrower, the
8 entire principal amount of the loan or loans between
9 the taxpayer and the borrower should be divided into
10 the basis of the Section 201(h) investment credit
11 property which secures the loan or loans, using for
12 this purpose the original basis of such property on the
13 date that it was placed in service in a federally
14 designated Foreign Trade Zone or Sub-Zone located in
15 Illinois. No taxpayer that is eligible for the
16 deduction provided in subparagraph (M) of paragraph
17 (2) of this subsection shall be eligible for the
18 deduction provided under this subparagraph (M-1). The
19 subtraction modification available to taxpayers in any
20 year under this subsection shall be that portion of the
21 total interest paid by the borrower with respect to
22 such loan attributable to the eligible property as
23 calculated under the previous sentence;

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

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

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

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

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

34 (R) In the case of an attorney-in-fact with respect

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

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

20 (T) For taxable years 2001 and thereafter, for the
21 taxable year in which the bonus depreciation deduction
22 (30% of the adjusted basis of the qualified property)
23 is taken on the taxpayer's federal income tax return
24 under subsection (k) of Section 168 of the Internal
25 Revenue Code and for each applicable taxable year
26 thereafter, an amount equal to "x", where:

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

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

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

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

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

20 (V) 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
27 the amount of such addition modification and (ii) any
28 income from intangible property (net of the deductions
29 allocable thereto) taken into account for the taxable
30 year with respect to a transaction with a taxpayer that
31 is required to make an addition modification with
32 respect to such transaction under Section
33 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
34 203(d)(2)(D-8), but not to exceed the amount of such

1 addition modification;

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

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

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

31 (c) Trusts and estates.

32 (1) In general. In the case of a trust or estate, base
33 income means an amount equal to the taxpayer's taxable

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

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

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

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

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

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

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

33 (i) the addition modification relating to the
34 net operating loss carried back or forward to the

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

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

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

19 (F) For taxable years ending on or after January 1,
20 1989, an amount equal to the tax deducted pursuant to
21 Section 164 of the Internal Revenue Code if the trust
22 or estate is claiming the same tax for purposes of the
23 Illinois foreign tax credit under Section 601 of this
24 Act;

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

29 (G-5) For taxable years ending after December 31,
30 1997, an amount equal to any eligible remediation costs
31 that the trust or estate deducted in computing adjusted
32 gross income and for which the trust or estate claims a
33 credit under subsection (1) of Section 201;

34 (G-10) For taxable years 2001 and thereafter, an

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

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

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 (G-12) For taxable years ending on or after
19 December 31, 2004, an amount equal to the amount
20 otherwise allowed as a deduction in computing base
21 income for interest paid, accrued, or incurred,
22 directly or indirectly, to a foreign person who would
23 be a member of the same 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 the foreign
26 person's total business activity. The addition
27 modification required by this subparagraph shall be
28 reduced to the extent that dividends were included in
29 base income of the unitary group for the same taxable
30 year and received by the taxpayer or by a member of the
31 taxpayer's unitary business group (including amounts
32 included in gross income pursuant to Sections 951
33 through 964 of the Internal Revenue Code and amounts
34 included in gross income under Section 78 of the

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

4 This paragraph shall not apply to the following:

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

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

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

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

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

33 (iv) an item of interest paid, accrued, or
34 incurred, directly or indirectly, to a foreign

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

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

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

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

20 This paragraph shall not apply to the following:

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

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

33 (a) the foreign person during the same
34 taxable year paid, accrued, or incurred, the

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 foreign person did not have as
6 a 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 foreign
13 person if the taxpayer establishes by clear and
14 convincing evidence, that the adjustments are
15 unreasonable; or if the taxpayer and the Director
16 agree in writing to the application or use of an
17 alternative method of apportionment under Section
18 304(f);

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

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

30 (H) An amount equal to all amounts included in such
31 total pursuant to the provisions of Sections 402(a),
32 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the
33 Internal Revenue Code or included in such total as
34 distributions under the provisions of any retirement

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

7 (I) The valuation limitation amount;

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

22 (L) With the exception of any amounts subtracted
23 under subparagraph (K), an amount equal to the sum of
24 all amounts disallowed as deductions by (i) Sections
25 171(a) (2) and 265(a) (2) of the Internal Revenue Code,
26 as now or hereafter amended, and all amounts of
27 expenses allocable to interest and disallowed as
28 deductions by Section 265(1) of the Internal Revenue
29 Code of 1954, as now or hereafter amended; and (ii) for
30 taxable years ending on or after August 13, 1999,
31 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
32 the Internal Revenue Code; the provisions of this
33 subparagraph are exempt from the provisions of Section
34 250;

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

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

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

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

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

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

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

30 (1) "y" equals the amount of the depreciation
31 deduction taken for the taxable year on the
32 taxpayer's federal income tax return on property
33 for which the bonus depreciation deduction (30% of
34 the adjusted basis of the qualified property) was

1 taken in any year under subsection (k) of Section
2 168 of the Internal Revenue Code, but not including
3 the bonus depreciation deduction; and

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

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 (30% of the adjusted basis of
10 the qualified property) taken on that property on the
11 taxpayer's federal income tax return under subsection
12 (k) of Section 168 of the Internal Revenue Code;

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

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

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

1 respect to such transaction under Section
2 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
3 203(d)(2)(D-8), but not to exceed the amount of such
4 addition modification;

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

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

30 (3) Limitation. The amount of any modification
31 otherwise required under this subsection shall, under
32 regulations prescribed by the Department, be adjusted by
33 any amounts included therein which were properly paid,
34 credited, or required to be distributed, or permanently set

1 aside for charitable purposes pursuant to Internal Revenue
2 Code Section 642(c) during the taxable year.

3 (d) Partnerships.

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

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

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

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

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

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

24 (D-5) For taxable years 2001 and thereafter, an
25 amount equal to the bonus depreciation deduction (30%
26 of the adjusted basis of the qualified property) taken
27 on the taxpayer's federal income tax return for the
28 taxable year under subsection (k) of Section 168 of the
29 Internal Revenue Code;

30 (D-6) If the taxpayer reports a capital gain or
31 loss on the taxpayer's federal income tax return for
32 the taxable year based on a sale or transfer of
33 property for which the taxpayer was required in any

1 taxable year to make an addition modification under
2 subparagraph (D-5), then an amount equal to the
3 aggregate amount of the deductions taken in all taxable
4 years under subparagraph (O) with respect to that
5 property.

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

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

28 This paragraph shall not apply to the following:

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

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

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

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

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

23 (iv) an item of interest paid, accrued, or
24 incurred, directly or indirectly, to a foreign
25 person if the taxpayer establishes by clear and
26 convincing evidence that the adjustments are
27 unreasonable; or if the taxpayer and the Director
28 agree in writing to the application or use of an
29 alternative method of apportionment under Section
30 304(f).

31 Nothing in this subsection shall preclude the
32 Director from making any other adjustment
33 otherwise allowed under Section 404 of this Act for
34 any tax year beginning after the effective date of

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

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

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

10 This paragraph shall not apply to the following:

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

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

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

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

34 (iii) any item of intangible expense or cost

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

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

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

20 (E) The valuation limitation amount;

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

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

34 (H) Any income of the partnership which

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

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

13 (J) With the exception of any amounts subtracted
14 under subparagraph (G), an amount equal to the sum of
15 all amounts disallowed as deductions by (i) Sections
16 171(a) (2), and 265(2) of the Internal Revenue Code of
17 1954, as now or hereafter amended, and all amounts of
18 expenses allocable to interest and disallowed as
19 deductions by Section 265(1) of the Internal Revenue
20 Code, as now or hereafter amended; and (ii) for taxable
21 years ending on or after August 13, 1999, Sections
22 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the
23 Internal Revenue Code; the provisions of this
24 subparagraph are exempt from the provisions of Section
25 250;

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

33 (L) An amount equal to any contribution made to a
34 job training project established pursuant to the Real

1 Property Tax Increment Allocation Redevelopment Act;

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

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

16 (O) For taxable years 2001 and thereafter, for the
17 taxable year in which the bonus depreciation deduction
18 (30% of the adjusted basis of the qualified property)
19 is taken on the taxpayer's federal income tax return
20 under subsection (k) of Section 168 of the Internal
21 Revenue Code and for each applicable taxable year
22 thereafter, an amount equal to "x", where:

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

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

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

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

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

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

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

32 (R) An amount equal to the interest income taken
33 into account for the taxable year (net of the
34 deductions allocable thereto) with respect to

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

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

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

24 (1) In general. Subject to the provisions of paragraph
25 (2) and subsection (b)(3), for purposes of this Section
26 and Section 803(e), a taxpayer's gross income, adjusted
27 gross income, or taxable income for the taxable year shall
28 mean the amount of gross income, adjusted gross income or
29 taxable income properly reportable for federal income tax
30 purposes for the taxable year under the provisions of the
31 Internal Revenue Code. Taxable income may be less than
32 zero. However, for taxable years ending on or after
33 December 31, 1986, net operating loss carryforwards from

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

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

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

33 (B) Certain other insurance companies. In the case
34 of mutual insurance companies subject to the tax

1 imposed by Section 831 of the Internal Revenue Code,
2 insurance company taxable income;

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

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

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

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

28 (G) Subchapter S corporations. In the case of: (i)
29 a Subchapter S corporation for which there is in effect
30 an election for the taxable year under Section 1362 of
31 the Internal Revenue Code, the taxable income of such
32 corporation determined in accordance with Section
33 1363(b) of the Internal Revenue Code, except that
34 taxable income shall take into account those items

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

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

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

34 (f) Valuation limitation amount.

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

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

9 (B) The lesser of (i) the sum of the pre-August 1,
10 1969 appreciation amounts (to the extent consisting of
11 capital gain) for all property in respect of which such
12 gain was reported for federal income tax purposes for
13 the taxable year, or (ii) the net capital gain for the
14 taxable year, reduced in either case by any amount of
15 such gain included in the amount determined under
16 subsection (a) (2) (F) or (c) (2) (H).

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

18 (A) If the fair market value of property referred
19 to in paragraph (1) was readily ascertainable on August
20 1, 1969, the pre-August 1, 1969 appreciation amount for
21 such property is the lesser of (i) the excess of such
22 fair market value over the taxpayer's basis (for
23 determining gain) for such property on that date
24 (determined under the Internal Revenue Code as in
25 effect on that date), or (ii) the total gain realized
26 and reportable for federal income tax purposes in
27 respect of the sale, exchange or other disposition of
28 such property.

29 (B) If the fair market value of property referred
30 to in paragraph (1) was not readily ascertainable on
31 August 1, 1969, the pre-August 1, 1969 appreciation
32 amount for such property is that amount which bears the
33 same ratio to the total gain reported in respect of the
34 property for federal income tax purposes for the

1 taxable year, as the number of full calendar months in
2 that part of the taxpayer's holding period for the
3 property ending July 31, 1969 bears to the number of
4 full calendar months in the taxpayer's entire holding
5 period for the property.

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

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

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

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

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