

1 AN ACT concerning college savings.

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

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

6 (15 ILCS 505/16.5)

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

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

22 New accounts in the College Savings Pool shall be  
23 processed through participating financial institutions.  
24 "Participating financial institution", as used in this  
25 Section, means any financial institution insured by the  
26 Federal Deposit Insurance Corporation and lawfully doing  
27 business in the State of Illinois and any credit union  
28 approved by the State Treasurer and lawfully doing business  
29 in the State of Illinois that agrees to process new accounts  
30 in the College Savings Pool. Participating financial  
31 institutions may charge a processing fee to participants to

1 open an account in the pool that shall not exceed \$30 until  
2 the year 2001. Beginning in 2001 and every year thereafter,  
3 the maximum fee limit shall be adjusted by the Treasurer  
4 based on the Consumer Price Index for the North Central  
5 Region as published by the United States Department of Labor,  
6 Bureau of Labor Statistics for the immediately preceding  
7 calendar year. Every contribution received by a financial  
8 institution for investment in the College Savings Pool shall  
9 be transferred from the financial institution to a location  
10 selected by the State Treasurer within one business day  
11 following the day that the funds must be made available in  
12 accordance with federal law. All communications from the  
13 State Treasurer to participants shall reference the  
14 participating financial institution at which the account was  
15 processed.

16 The Treasurer may invest the moneys in the College  
17 Savings Pool in the same manner, in the same types of  
18 investments, and subject to the same limitations provided for  
19 the investment of moneys by the Illinois State Board of  
20 Investment. To enhance the safety and liquidity of the  
21 College Savings Pool, to ensure the diversification of the  
22 investment portfolio of the pool, and in an effort to keep  
23 investment dollars in the State of Illinois, the State  
24 Treasurer shall make a percentage of each account available  
25 for investment in participating financial institutions doing  
26 business in the State. The State Treasurer shall deposit  
27 with the participating financial institution at which the  
28 account was processed the following percentage of each  
29 account at a prevailing rate offered by the institution,  
30 provided that the deposit is federally insured or fully  
31 collateralized and the institution accepts the deposit: 10%  
32 of the total amount of each account for which the current age  
33 of the beneficiary is less than 7 years of age, 20% of the  
34 total amount of each account for which the beneficiary is at

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

21 Participants shall be required to use moneys distributed  
22 from the College Savings Pool for qualified expenses at  
23 eligible educational institutions. "Qualified expenses", as  
24 used in this Section, means the following: (i) tuition, fees,  
25 and the costs of books, supplies, and equipment required for  
26 enrollment or attendance at an eligible educational  
27 institution and (ii) certain room and board expenses incurred  
28 while attending an eligible educational institution at least  
29 half-time. "Eligible educational institutions", as used in  
30 this Section, means public and private colleges, junior  
31 colleges, graduate schools, and certain vocational  
32 institutions that are described in Section 481 of the Higher  
33 Education Act of 1965 (20 U.S.C. 1088) and that are eligible  
34 to participate in Department of Education student aid

1 programs. A student shall be considered to be enrolled at  
2 least half-time if the student is enrolled for at least half  
3 the full-time academic work load for the course of study the  
4 student is pursuing as determined under the standards of the  
5 institution at which the student is enrolled. Distributions  
6 made from the pool for qualified expenses shall be made  
7 directly to the eligible educational institution, directly to  
8 a vendor, or in the form of a check payable to both the  
9 beneficiary and the institution or vendor. Any moneys that  
10 are distributed in any other manner or that are used for  
11 expenses other than qualified expenses at an eligible  
12 educational institution shall be subject to a penalty of 10%  
13 of the earnings unless the beneficiary dies, becomes  
14 disabled, or receives a scholarship that equals or exceeds  
15 the distribution. Penalties shall be withheld at the time  
16 the distribution is made.

17 The Treasurer shall limit the contributions that may be  
18 made on behalf of a designated beneficiary based on an  
19 actuarial estimate of what is required to pay tuition, fees,  
20 and room and board for 5 undergraduate years at the highest  
21 cost eligible educational institution. The contributions made  
22 on behalf of a beneficiary who is also a beneficiary under  
23 the Illinois Prepaid Tuition Program shall be further  
24 restricted to ensure that the contributions in both programs  
25 combined do not exceed the limit established for the College  
26 Savings Pool. The Treasurer shall provide the Illinois  
27 Student Assistance Commission each year at a time designated  
28 by the Commission, an electronic report of all participant  
29 accounts in the Treasurer's College Savings Pool, listing  
30 total contributions and disbursements from each individual  
31 account during the previous calendar year. As soon  
32 thereafter as is possible following receipt of the  
33 Treasurer's report, the Illinois Student Assistance  
34 Commission shall, in turn, provide the Treasurer with an

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

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

32 The Treasurer shall adopt rules he or she considers  
33 necessary for the efficient administration of the College  
34 Savings Pool. The rules shall provide whatever additional

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

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

27 Moneys credited to or expended from the College Savings  
28 Pool by or on behalf of a participant or designated  
29 beneficiary shall be exempt from all claims of creditors of  
30 the participant or of the designated beneficiary.

31 No contributions to the College Savings Pool authorized  
32 by this Section shall be considered in evaluating the  
33 financial situation of the designated beneficiary or be  
34 deemed a financial resource of or a form of financial aid or

1 assistance to the designated beneficiary, for purposes of  
2 determining eligibility for any scholarship, grant, or  
3 monetary assistance awarded by the Illinois Student  
4 Assistance Commission, the State, or any agency thereof; nor  
5 shall contributions to the College Savings Pool reduce the  
6 amount of any scholarship, grant, or monetary assistance that  
7 the designated beneficiary is eligible to be awarded by the  
8 Illinois Student Assistance Commission, the State, or any  
9 agency thereof in accordance with the provisions of any State  
10 law.

11 (Source: P.A. 91-607, eff. 1-1-00; 91-829, eff. 1-1-01;  
12 92-16, eff. 6-28-01; 92-439, eff. 8-17-01.)

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

15 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

16 Sec. 203. Base income defined.

17 (a) Individuals.

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

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

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

32 (B) An amount equal to the amount of tax

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

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

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

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

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



1 Section 201; and

2 (D-15) An amount equal to the earnings on  
3 investments in any college savings program or  
4 prepaid tuition program established under Section  
5 529 of the Internal Revenue Code other than the  
6 College Savings Pool created pursuant to Section  
7 16.5 of the State Treasurer Act and the Illinois  
8 Prepaid Tuition Program created pursuant to the  
9 Illinois Prepaid Tuition Act;

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

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

1 prisoner of war or missing in action, and in respect  
2 of any compensation paid to a resident in 2001 or  
3 thereafter by reason of being a member of the  
4 Illinois National Guard. The provisions of this  
5 amendatory Act of the 92nd General Assembly are  
6 exempt from the provisions of Section 250;

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

18 (G) The valuation limitation amount;

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

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

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

34 (K) An amount equal to those dividends

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

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

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

29 (N) An amount equal to all amounts included in  
30 such total which are exempt from taxation by this  
31 State either by reason of its statutes or  
32 Constitution or by reason of the Constitution,  
33 treaties or statutes of the United States; provided  
34 that, in the case of any statute of this State that

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

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

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

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

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

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

31 (T) An amount, to the extent included in  
32 adjusted gross income, equal to the amount of  
33 interest earned in the taxable year on a medical  
34 care savings account established under the Medical

1 Care Savings Account Act or the Medical Care Savings  
2 Account Act of 2000 on behalf of the taxpayer, other  
3 than interest added pursuant to item (D-5) of this  
4 paragraph (2);

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

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

1 insurance and long-term care insurance premiums paid  
2 by the taxpayer times a number that represents the  
3 fractional percentage of eligible medical expenses  
4 under Section 213 of the Internal Revenue Code of  
5 1986 not actually deducted on the taxpayer's federal  
6 income tax return;

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

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

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

14 (Y) For taxable years beginning on or after  
15 January 1, 2002, moneys contributed in the taxable  
16 year to a College Savings Pool account under Section  
17 16.5 of the State Treasurer Act. Moneys rolled over  
18 into a College Savings Pool account shall not be  
19 considered contributions for purposes of this  
20 subparagraph. This subparagraph (Y) is exempt from  
21 the provisions of Section 250.

22 (b) Corporations.

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

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

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

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

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

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

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

30           (i) the addition modification relating to  
31 the net operating loss carried back or forward  
32 to the taxable year from any taxable year  
33 ending prior to December 31, 1986 shall be  
34 reduced by the amount of addition modification



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

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

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

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

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

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

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

34 (H) In the case of a regulated investment

1 company, an amount equal to the amount of exempt  
2 interest dividends as defined in subsection (b) (5)  
3 of Section 852 of the Internal Revenue Code, paid to  
4 shareholders for the taxable year;

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

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

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

1 of its operations in an Enterprise Zone or zones;

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

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

34 (M-1) For any taxpayer that is a financial

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

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

1 Act;

2 (O) An amount equal to: (i) 85% for taxable  
3 years ending on or before December 31, 1992, or, a  
4 percentage equal to the percentage allowable under  
5 Section 243(a)(1) of the Internal Revenue Code of  
6 1986 for taxable years ending after December 31,  
7 1992, of the amount by which dividends included in  
8 taxable income and received from a corporation that  
9 is not created or organized under the laws of the  
10 United States or any state or political subdivision  
11 thereof, including, for taxable years ending on or  
12 after December 31, 1988, dividends received or  
13 deemed received or paid or deemed paid under  
14 Sections 951 through 964 of the Internal Revenue  
15 Code, exceed the amount of the modification provided  
16 under subparagraph (G) of paragraph (2) of this  
17 subsection (b) which is related to such dividends;  
18 plus (ii) 100% of the amount by which dividends,  
19 included in taxable income and received, including,  
20 for taxable years ending on or after December 31,  
21 1988, dividends received or deemed received or paid  
22 or deemed paid under Sections 951 through 964 of the  
23 Internal Revenue Code, from any such corporation  
24 specified in clause (i) that would but for the  
25 provisions of Section 1504 (b) (3) of the Internal  
26 Revenue Code be treated as a member of the  
27 affiliated group which includes the dividend  
28 recipient, exceed the amount of the modification  
29 provided under subparagraph (G) of paragraph (2) of  
30 this subsection (b) which is related to such  
31 dividends;

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

1           (Q) An amount equal to the amount of the  
2 deduction used to compute the federal income tax  
3 credit for restoration of substantial amounts held  
4 under claim of right for the taxable year pursuant  
5 to Section 1341 of the Internal Revenue Code of  
6 1986;

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

18           (S) For taxable years ending on or after  
19 December 31, 1997, in the case of a Subchapter S  
20 corporation, an amount equal to all amounts of  
21 income allocable to a shareholder subject to the  
22 Personal Property Tax Replacement Income Tax imposed  
23 by subsections (c) and (d) of Section 201 of this  
24 Act, including amounts allocable to organizations  
25 exempt from federal income tax by reason of Section  
26 501(a) of the Internal Revenue Code. This  
27 subparagraph (S) is exempt from the provisions of  
28 Section 250.

29           (3) Special rule. For purposes of paragraph (2)  
30 (A), "gross income" in the case of a life insurance  
31 company, for tax years ending on and after December 31,  
32 1994, shall mean the gross investment income for the  
33 taxable year.

34           (c) Trusts and estates.

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

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

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

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

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

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

27           (E) For taxable years in which a net operating  
28 loss carryback or carryforward from a taxable year  
29 ending prior to December 31, 1986 is an element of  
30 taxable income under paragraph (1) of subsection (e)  
31 or subparagraph (E) of paragraph (2) of subsection  
32 (e), the amount by which addition modifications  
33 other than those provided by this subparagraph (E)  
34 exceeded subtraction modifications in such taxable

1 year, with the following limitations applied in the  
2 order that they are listed:

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

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

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

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

32 (G) An amount equal to the amount of the  
33 capital gain deduction allowable under the Internal  
34 Revenue Code, to the extent deducted from gross



1 income in the computation of taxable income; and

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

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

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

21 (I) The valuation limitation amount;

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

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

1 Act, the amount exempted shall be the interest net  
2 of bond premium amortization;

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

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

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

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

1           (P) An amount equal to the amount of the  
2 deduction used to compute the federal income tax  
3 credit for restoration of substantial amounts held  
4 under claim of right for the taxable year pursuant  
5 to Section 1341 of the Internal Revenue Code of  
6 1986; and

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

1 regime or as an heir of the victim. The amount of  
2 and the eligibility for any public assistance,  
3 benefit, or similar entitlement is not affected by  
4 the inclusion of items (i) and (ii) of this  
5 paragraph in gross income for federal income tax  
6 purposes. This paragraph is exempt from the  
7 provisions of Section 250.

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

15 (d) Partnerships.

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

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

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

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

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

33 (D) An amount equal to the amount of the  
34 capital gain deduction allowable under the Internal

1 Revenue Code, to the extent deducted from gross  
2 income in the computation of taxable income;  
3 and by deducting from the total so obtained the following  
4 amounts:

5 (E) The valuation limitation amount;

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

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

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

28 (I) An amount equal to all amounts of income  
29 distributable to an entity subject to the Personal  
30 Property Tax Replacement Income Tax imposed by  
31 subsections (c) and (d) of Section 201 of this Act  
32 including amounts distributable to organizations  
33 exempt from federal income tax by reason of Section  
34 501(a) of the Internal Revenue Code;

1           (J) With the exception of any amounts  
2 subtracted under subparagraph (G), an amount equal  
3 to the sum of all amounts disallowed as deductions  
4 by (i) Sections 171(a) (2), and 265(2) of the  
5 Internal Revenue Code of 1954, as now or hereafter  
6 amended, and all amounts of expenses allocable to  
7 interest and disallowed as deductions by Section  
8 265(1) of the Internal Revenue Code, as now or  
9 hereafter amended; and (ii) for taxable years ending  
10 on or after August 13, 1999, Sections 171(a)(2),  
11 265, 280C, and 832(b)(5)(B)(i) of the Internal  
12 Revenue Code; the provisions of this subparagraph  
13 are exempt from the provisions of Section 250;

14           (K) An amount equal to those dividends  
15 included in such total which were paid by a  
16 corporation which conducts business operations in an  
17 Enterprise Zone or zones created under the Illinois  
18 Enterprise Zone Act, enacted by the 82nd General  
19 Assembly, and which does not conduct such operations  
20 other than in an Enterprise Zone or Zones;

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

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

1           (N) An amount equal to the amount of the  
2           deduction used to compute the federal income tax  
3           credit for restoration of substantial amounts held  
4           under claim of right for the taxable year pursuant  
5           to Section 1341 of the Internal Revenue Code of  
6           1986.

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

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

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

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

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

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

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

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

30               (E) Consolidated corporations. In the case of  
31       a corporation which is a member of an affiliated  
32       group of corporations filing a consolidated income  
33       tax return for the taxable year for federal income  
34       tax purposes, taxable income determined as if such



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

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

14 (G) Subchapter S corporations. In the case  
15 of: (i) a Subchapter S corporation for which there  
16 is in effect an election for the taxable year under  
17 Section 1362 of the Internal Revenue Code, the  
18 taxable income of such corporation determined in  
19 accordance with Section 1363(b) of the Internal  
20 Revenue Code, except that taxable income shall take  
21 into account those items which are required by  
22 Section 1363(b)(1) of the Internal Revenue Code to  
23 be separately stated; and (ii) a Subchapter S  
24 corporation for which there is in effect a federal  
25 election to opt out of the provisions of the  
26 Subchapter S Revision Act of 1982 and have applied  
27 instead the prior federal Subchapter S rules as in  
28 effect on July 1, 1982, the taxable income of such  
29 corporation determined in accordance with the  
30 federal Subchapter S rules as in effect on July 1,  
31 1982; and

32 (H) Partnerships. In the case of a  
33 partnership, taxable income determined in accordance  
34 with Section 703 of the Internal Revenue Code,

1           except that taxable income shall take into account  
2           those items which are required by Section 703(a)(1)  
3           to be separately stated but which would be taken  
4           into account by an individual in calculating his  
5           taxable income.

6           (f) Valuation limitation amount.

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

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

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

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

26           (A) If the fair market value of property  
27           referred to in paragraph (1) was readily  
28           ascertainable on August 1, 1969, the pre-August 1,  
29           1969 appreciation amount for such property is the  
30           lesser of (i) the excess of such fair market value  
31           over the taxpayer's basis (for determining gain) for  
32           such property on that date (determined under the  
33           Internal Revenue Code as in effect on that date), or  
34           (ii) the total gain realized and reportable for

1 federal income tax purposes in respect of the sale,  
2 exchange or other disposition of such property.

3 (B) If the fair market value of property  
4 referred to in paragraph (1) was not readily  
5 ascertainable on August 1, 1969, the pre-August 1,  
6 1969 appreciation amount for such property is that  
7 amount which bears the same ratio to the total gain  
8 reported in respect of the property for federal  
9 income tax purposes for the taxable year, as the  
10 number of full calendar months in that part of the  
11 taxpayer's holding period for the property ending  
12 July 31, 1969 bears to the number of full calendar  
13 months in the taxpayer's entire holding period for  
14 the property.

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

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

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

30 (Source: P.A. 91-192, eff. 7-20-99; 91-205, eff. 7-20-99;  
31 91-357, eff. 7-29-99; 91-541, eff. 8-13-99; 91-676, eff.  
32 12-23-99; 91-845, eff. 6-22-00; 91-913, eff. 1-1-01; 92-16,  
33 eff. 6-28-01; 92-244, eff. 8-3-01; 92-439, eff. 8-17-01;

1 revised 9-21-01.)

2 Section 99. Effective date. This Act takes effect upon

3 becoming law.