

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 No contributions to the College Savings Pool authorized  
28 by this Section shall be considered in evaluating the  
29 financial situation of the designated beneficiary or be  
30 deemed a financial resource of or a form of financial aid or  
31 assistance to the designated beneficiary, for purposes of  
32 determining eligibility for any scholarship, grant, or  
33 monetary assistance awarded by the Illinois Student  
34 Assistance Commission, the State, or any agency thereof; nor

1 shall contributions to the College Savings Pool reduce the  
 2 amount of any scholarship, grant, or monetary assistance that  
 3 the designated beneficiary is eligible to be awarded by the  
 4 Illinois Student Assistance Commission, the State, or any  
 5 agency thereof in accordance with the provisions of any State  
 6 law.

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

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

11 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

12 Sec. 203. Base income defined.

13 (a) Individuals.

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

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

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

28 (B) An amount equal to the amount of tax  
 29 imposed by this Act to the extent deducted from  
 30 gross income in the computation of adjusted gross  
 31 income for the taxable year;

32 (C) An amount equal to the amount received

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

13           (D) An amount equal to the amount of the  
14          capital gain deduction allowable under the Internal  
15          Revenue Code, to the extent deducted from gross  
16          income in the computation of adjusted gross income;

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

26           (D-10) For taxable years ending after December  
27          31, 1997, an amount equal to any eligible  
28          remediation costs that the individual deducted in  
29          computing adjusted gross income and for which the  
30          individual claims a credit under subsection (l) of  
31          Section 201; and

32           (D-15) For taxable years beginning on or after  
33          January 1, 2002, in the case of a distribution from  
34          a qualified tuition program under Section 529 of the

1           Internal Revenue Code, other than (i) a distribution  
 2           from a College Savings Pool created under Section  
 3           16.5 of the State Treasurer Act or (ii) a  
 4           distribution from the Illinois Prepaid Tuition Trust  
 5           Fund, an amount equal to the amount excluded from  
 6           gross income under Section 529(c)(3)(B);

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

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

1 Illinois National Guard. The provisions of this  
2 amendatory Act of the 92nd General Assembly are  
3 exempt from the provisions of Section 250;

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

15 (G) The valuation limitation amount;

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

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

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

31 (K) An amount equal to those dividends  
32 included in such total that were paid by a  
33 corporation that conducts business operations in a  
34 federally designated Foreign Trade Zone or Sub-Zone

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

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

12          (M) With the exception of any amounts  
13          subtracted under subparagraph (N), an amount equal  
14          to the sum of all amounts disallowed as deductions  
15          by (i) Sections 171(a) (2), and 265(2) of the  
16          Internal Revenue Code of 1954, as now or hereafter  
17          amended, and all amounts of expenses allocable to  
18          interest and disallowed as deductions by Section  
19          265(1) of the Internal Revenue Code of 1954, as now  
20          or hereafter amended; and (ii) for taxable years  
21          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  
25          Section 250;

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

1 premium amortization;

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

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

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

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

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

28 (T) An amount, to the extent included in  
29 adjusted gross income, equal to the amount of  
30 interest earned in the taxable year on a medical  
31 care savings account established under the Medical  
32 Care Savings Account Act or the Medical Care Savings  
33 Account Act of 2000 on behalf of the taxpayer, other  
34 than interest added pursuant to item (D-5) of this

1 paragraph (2);

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

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

1 under Section 213 of the Internal Revenue Code of  
2 1986 not actually deducted on the taxpayer's federal  
3 income tax return;

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

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

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

11 (Y) For taxable years beginning on or after  
12 January 1, 2002, moneys contributed in the taxable  
13 year to a College Savings Pool account under Section  
14 16.5 of the State Treasurer Act, except that amounts  
15 excluded from gross income under Section  
16 529(c)(3)(i) of the Internal Revenue Code shall not  
17 be considered moneys contributed under this  
18 subparagraph (Y). This subparagraph (Y) is exempt  
19 from the provisions of Section 250.

20 (b) Corporations.

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

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

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

33 (B) An amount equal to the amount of tax  
34 imposed by this Act to the extent deducted from

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

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

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

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

28 (i) the addition modification relating to  
29 the net operating loss carried back or forward  
30 to the taxable year from any taxable year  
31 ending prior to December 31, 1986 shall be  
32 reduced by the amount of addition modification  
33 under this subparagraph (E) which related to  
34 that net operating loss and which was taken

1           into account in calculating the base income of  
2           an earlier taxable year, and

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

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

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

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

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

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

32                   (H) In the case of a regulated investment  
33          company, an amount equal to the amount of exempt  
34          interest dividends as defined in subsection (b) (5)

1 of Section 852 of the Internal Revenue Code, paid to  
2 shareholders for the taxable year;

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

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

28 (K) 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 (L) 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 (K) of paragraph 2 of this subsection shall not be  
8 eligible for the deduction provided under this  
9 subparagraph (L);

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

32 (M-1) For any taxpayer that is a financial  
33 organization within the meaning of Section 304(c) of  
34 this Act, an amount included in such total as

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

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

34 (O) An amount equal to: (i) 85% for taxable

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

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

33 (Q) An amount equal to the amount of the  
34 deduction used to compute the federal income tax

1 credit for restoration of substantial amounts held  
2 under claim of right for the taxable year pursuant  
3 to Section 1341 of the Internal Revenue Code of  
4 1986;

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

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

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

32 (c) Trusts and estates.

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

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

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

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

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

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

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

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

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

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

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

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

30           (G) An amount equal to the amount of the  
31           capital gain deduction allowable under the Internal  
32           Revenue Code, to the extent deducted from gross  
33           income in the computation of taxable income; and

34           (G-5) For taxable years ending after December

1           31, 1997, an amount equal to any eligible  
2           remediation costs that the trust or estate deducted  
3           in computing adjusted gross income and for which the  
4           trust or estate claims a credit under subsection (l)  
5           of Section 201;

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

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

19                   (I) The valuation limitation amount;

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

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

1           (L) With the exception of any amounts  
2 subtracted under subparagraph (K), an amount equal  
3 to the sum of all amounts disallowed as deductions  
4 by (i) Sections 171(a) (2) and 265(a)(2) of the  
5 Internal Revenue Code, as now or hereafter amended,  
6 and all amounts of expenses allocable to interest  
7 and disallowed as deductions by Section 265(1) of  
8 the Internal Revenue Code of 1954, 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           (M) 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 and conducts substantially all  
19 of its operations in an Enterprise Zone or Zones;

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

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

33           (P) An amount equal to the amount of the  
34 deduction used to compute the federal income tax

1 credit for restoration of substantial amounts held  
2 under claim of right for the taxable year pursuant  
3 to Section 1341 of the Internal Revenue Code of  
4 1986; and

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

1 benefit, or similar entitlement is not affected by  
2 the inclusion of items (i) and (ii) of this  
3 paragraph in gross income for federal income tax  
4 purposes. This paragraph is exempt from the  
5 provisions of Section 250.

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

13 (d) Partnerships.

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

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

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

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

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

31 (D) An amount equal to the amount of the  
32 capital gain deduction allowable under the Internal  
33 Revenue Code, to the extent deducted from gross  
34 income in the computation of taxable income;

1 and by deducting from the total so obtained the following  
2 amounts:

3 (E) The valuation limitation amount;

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

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

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

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

33 (J) With the exception of any amounts  
34 subtracted under subparagraph (G), an amount equal

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

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

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

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

33 (N) An amount equal to the amount of the  
34 deduction used to compute the federal income tax

1 credit for restoration of substantial amounts held  
2 under claim of right for the taxable year pursuant  
3 to Section 1341 of the Internal Revenue Code of  
4 1986.

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

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

1 applied under Section 172 of the Internal Revenue Code or  
2 under subparagraph (E) of paragraph (2) of this  
3 subsection (e) applied in conjunction with Section 172 of  
4 the Internal Revenue Code.

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

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

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

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

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

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

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

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

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

30 (H) Partnerships. In the case of a  
31 partnership, taxable income determined in accordance  
32 with Section 703 of the Internal Revenue Code,  
33 except that taxable income shall take into account  
34 those items which are required by Section 703(a)(1)

1 to be separately stated but which would be taken  
2 into account by an individual in calculating his  
3 taxable income.

4 (f) Valuation limitation amount.

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

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

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

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

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

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

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

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

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

28          (Source: P.A. 91-192, eff. 7-20-99; 91-205, eff. 7-20-99;  
29          91-357, eff. 7-29-99; 91-541, eff. 8-13-99; 91-676, eff.  
30          12-23-99; 91-845, eff. 6-22-00; 91-913, eff. 1-1-01; 92-16,  
31          eff. 6-28-01; 92-244, eff. 8-3-01; 92-439, eff. 8-17-01;  
32          revised 9-21-01.)

1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.