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1 AMENDMENT TO HOUSE BILL 4454

2 AMENDMENT NO. _____. Amend House Bill 4454 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Income Tax Act is amended by
5 changing Section 404 as follows:

6 (35 ILCS 5/404) (from Ch. 120, par. 4-404)

7 Sec. 404. Reallocation of Items.

8 (a) If it appears to the Director that any agreement,
9 understanding or arrangement exists between any persons which
10 causes any person's base income allocable to this State to be
11 improperly or inaccurately reflected, the Director may adjust
12 such items of income and deduction, and any factor taken into
13 account in allocating non-business income to this State, to
14 such extent as may reasonably be required to determine the base
15 income of such person properly allocable to this State. Unless
16 the principal purpose of the agreement, understanding, or

1 arrangement is for the avoidance of federal or State income
2 tax, any adjustment under this Section must be made in
3 accordance with Section 482 of the Internal Revenue Code, as
4 amended, and any applicable federal regulations.

5 (b) In making an adjustment under this Section for any
6 taxable year, the Director must apply the provisions of this
7 Act in the manner in which they were in effect during that
8 taxable year, unless otherwise specifically authorized by
9 statute.

10 (c) Notwithstanding any other rulemaking authority that
11 may exist, neither the Governor nor any agency or agency head
12 under the jurisdiction of the Governor has any authority to
13 make or promulgate rules to implement or enforce the provisions
14 of this amendatory Act of the 95th General Assembly. If,
15 however, the Governor believes that rules are necessary to
16 implement or enforce the provisions of this amendatory Act of
17 the 95th General Assembly, the Governor may suggest rules to
18 the General Assembly by filing them with the Clerk of the House
19 and Secretary of the Senate and by requesting that the General
20 Assembly authorize such rulemaking by law, enact those
21 suggested rules into law, or take any other appropriate action
22 in the General Assembly's discretion. Nothing contained in this
23 amendatory Act of the 95th General Assembly shall be
24 interpreted to grant rulemaking authority under any other
25 Illinois statute where such authority is not otherwise
26 explicitly given. For the purposes of this subsection, "rules"

1 is given the meaning contained in Section 1-70 of the Illinois
2 Administrative Procedure Act, and "agency" and "agency head"
3 are given the meanings contained in Sections 1-20 and 1-25 of
4 the Illinois Administrative Procedure Act to the extent that
5 such definitions apply to agencies or agency heads under the
6 jurisdiction of the Governor.

7 (Source: P.A. 76-261.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law."