

101ST GENERAL ASSEMBLY
State of Illinois
2019 and 2020
HB0902

Introduced , by Rep. Carol Ammons

SYNOPSIS AS INTRODUCED:

See Index

Creates the Cannabis Legalization Equity Act. Provides that notwithstanding any other provision of law, except as otherwise provided in the Act, the following acts are lawful and shall not be a criminal or civil offense under State law or the law of any political subdivision of this State or be a basis for seizure or forfeiture of assets under State law for persons 21 years of age or older: (1) possessing, consuming, using, displaying, purchasing, or transporting cannabis accessories; (2) possessing, growing, processing, or transporting on one's own premises no more than 24 mature cannabis plants and possession of the cannabis produced by the plants on the premises where the plants were grown; (3) possessing outside one's premises no more than 224 grams of cannabis; and (4) assisting another person who is 21 years of age or older in any of the acts described in items (1) through (3). Provides that an excise tax is imposed at the rate of 10% of the sale price of the sale or transfer of cannabis from a cannabis cultivation facility to a retail cannabis store or cannabis product manufacturing facility. Provides that at least 51% of the licenses issued by the Department of Agriculture for cannabis cultivation facilities and at least 51% of the licenses issued by the Department of Financial and Professional Regulation for retail cannabis stores shall be in communities disproportionately harmed by the war on drugs. Amends various other Acts to make conforming changes. Effective immediately.

LRB101 08006 RLC 53065 b

CORRECTIONAL BUDGET
AND IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT MAY
APPLY

A BILL FOR

HB0902

LRB101 08006 RLC 53065 b

1 AN ACT concerning cannabis.

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

4 Section 1. Short title. This Act may be cited as the
5 Cannabis Legalization Equity Act.

6 Section 5. Purpose and findings.

7 (a) In the interest of allowing law enforcement to focus on
8 violent and property crimes, generating revenue for education
9 and other public purposes, and individual freedom, the State
10 finds and declares that the use of cannabis shall be legal for
11 persons 21 years of age or older and taxed in a manner similar
12 to alcohol.

13 (b) In the interest of the health and public safety of our
14 citizenry, the people of this State further find and declare
15 that cannabis should be regulated in a manner similar to
16 alcohol so that:

17 (1) persons must show proof of age before purchasing
18 cannabis;

19 (2) selling, distributing, or transferring cannabis to
20 persons under 21 years of age shall remain illegal;

21 (3) driving under the influence of cannabis shall
22 remain illegal;

23 (4) legitimate, taxpaying business people, and not

HB0902

- 2 -

LRB101 08006 RLC 53065 b

1 criminal actors, shall conduct sales of cannabis; and

2 (5) cannabis sold in this State shall be tested,

3 labeled, and subject to additional regulations to ensure
4 that consumers are informed and protected.

5 (c) In the interest of enacting rational policies for the
6 treatment of all variations of the cannabis plant, the State
7 further finds and declares that industrial hemp shall be
8 regulated separately from strains of cannabis with higher
9 delta-9 tetrahydrocannabinol (THC) concentrations.

10 (d) The State further finds and declares that it is
11 necessary to ensure consistency and fairness in the application
12 of this Act throughout the State and that the matters addressed
13 by this Act are, except as specified in this Act, matters of
14 statewide concern.

15 Section 10. Definitions. As used in this Act:

16 "Cannabis" means all parts of the plant of the genus
17 cannabis, the seeds of the plant of the genus cannabis, the
18 resin extracted from any part of the plant, and every compound,
19 manufacture, salt, derivative, mixture, or preparation of the
20 plant, its seeds, or its resin, including cannabis concentrate
21 and hashish. "Cannabis" does not include industrial hemp, nor
22 does it include fiber produced from the stalks, oil, or cake
23 made from the seeds of the plant, sterilized seed of the plant
24 which is incapable of germination, or the weight of any other
25 ingredient combined with cannabis to prepare topical or oral

HB0902

- 3 -

LRB101 08006 RLC 53065 b

1 administrations, food, drink, or other product.

2 "Cannabis accessories" means any equipment, products, or
3 materials of any kind which are used, intended for use, or
4 designed for use in planting, propagating, cultivating,
5 growing, harvesting, composting, manufacturing, compounding,
6 converting, producing, processing, preparing, testing,
7 analyzing, packaging, repackaging, storing, vaporizing, or
8 containing cannabis, or for ingesting, inhaling, or otherwise
9 introducing cannabis into the human body.

10 "Cannabis cultivation facility" means an entity registered
11 to cultivate, prepare, and package cannabis and sell cannabis
12 to retail cannabis stores, to cannabis product manufacturing

13 facilities, and to other cannabis cultivation facilities, but
14 not to consumers. A cannabis cultivation facility may produce
15 cannabis concentrates, tinctures, extracts, or other cannabis
16 products.

17 "Cannabis establishment" means a cannabis cultivation
18 facility, a cannabis testing facility, a cannabis product
19 manufacturing facility, or a retail cannabis store.

20 "Cannabis product manufacturing facility" means an entity
21 registered to purchase cannabis; manufacture, prepare, and
22 package cannabis products; and sell cannabis and cannabis
23 products to other cannabis product manufacturing facilities
24 and to retail cannabis stores, but not to consumers.

25 "Cannabis products" means concentrated cannabis products
26 and cannabis products that are comprised of cannabis and other

HB0902

- 4 -

LRB101 08006 RLC 53065 b

1 ingredients and are intended for use or consumption, such as,
2 but not limited to, edible products, ointments, and tinctures.

3 "Cannabis testing facility" means an entity registered to
4 analyze and certify the safety and potency of cannabis.

5 "Consumer" means a person 21 years of age or older who
6 purchases cannabis or cannabis products for personal use by
7 persons 21 years of age or older, but not for resale to others.

8 "Department" means the following:

9 (1) the Department of Agriculture, or its successor
10 agency, concerning the issuance, renewal, suspension, and
11 revocation of a registration to operate a cannabis
12 cultivation facility; or

13 (2) the Department of Financial and Professional
14 Regulation, or its successor agency, concerning the
15 issuance, renewal, suspension, and revocation of a
16 registration to operate a retail cannabis store, cannabis
17 product manufacturing facility, or cannabis testing
18 facility.

19 "Industrial hemp" means the plant of the genus cannabis and
20 any part of the plant, whether growing or not, with a delta-9
21 tetrahydrocannabinol concentration that does not exceed

22 three-tenths percent on a dry weight basis.

23 "Locality" means a municipality or, in reference to a
24 location outside the boundaries of a municipality, a county.

25 "Local regulatory authority" means the office or entity
26 designated to process cannabis establishment applications by a

HB0902

- 5 -

LRB101 08006 RLC 53065 b

1 municipality or, in reference to a location outside the
2 boundaries of a municipality, a county.

3 "Public place" means any place to which the general public
4 has access.

5 "Retail cannabis store" means an entity registered to
6 purchase cannabis from cannabis cultivation facilities and
7 cannabis and cannabis products from cannabis product
8 manufacturing facilities and to sell cannabis and cannabis
9 products to consumers.

10 "Unreasonably impracticable" means that the measures
11 necessary to comply with the regulations require a high
12 investment of risk, money, time, or any other resource or asset
13 that the operation of a cannabis establishment is not worthy of
14 being carried out in practice by a reasonably prudent business
15 person.

16 Section 15. Personal use of cannabis. Notwithstanding any
17 other provision of law, except as otherwise provided in this
18 Act, the following acts are lawful and shall not be a criminal
19 or civil offense under State law or the law of any political
20 subdivision of this State or be a basis for seizure or
21 forfeiture of assets under State law for persons 21 years of
22 age or older:

23 (1) possessing, consuming, using, displaying,
24 purchasing, or transporting cannabis accessories;

25 (2) possessing, growing, processing, or transporting

HB0902

- 6 -

LRB101 08006 RLC 53065 b

on one's own premises no more than 24 mature cannabis
plants and possession of the cannabis produced by the
plants on the premises where the plants were grown;

(3) possessing outside his or her premises no more than
224 grams of cannabis; or

(4) assisting another person who is 21 years of age or
older in any of the acts described in paragraphs (1)
through (3) of this Section.

Section 20. Restrictions on personal cultivation; penalty.

(a) It is unlawful for a person who is 21 years of age or
older to cultivate cannabis plants in a manner that is contrary
to this Section. Cannabis cultivation may only occur on
property lawfully in possession of the cultivator or with the
consent of the person in lawful possession of the property.

(b) A person who violates this Section is guilty of a civil
law violation punishable by a fine not to exceed \$750.

Section 30. False identification; penalty.

(a) A person who is under 21 years of age may not present
or offer to a cannabis establishment or the cannabis
establishment's agent or employee any written or oral evidence
of age that is false, fraudulent, or not actually the person's
own, for the purpose of:

(1) purchasing, attempting to purchase, or otherwise
procuring or attempting to procure cannabis; or

HB0902

- 7 -

LRB101 08006 RLC 53065 b

(2) gaining access to a cannabis establishment.

(b) A person who violates this Section is guilty of a civil
law violation punishable by a fine of not less than \$200 and
not more than \$400.

Section 35. Cannabis accessories authorized.

(a) Notwithstanding any other provision of law, it is
lawful and shall not be an offense under State law or the law
of any political subdivision of this State or be a basis for
seizure or forfeiture of assets under State law for persons 21

10 years of age or older to manufacture, possess, or purchase
11 cannabis accessories, or to distribute or sell cannabis
12 accessories to a person who is 21 years of age or older.

13 (b) A person who is 21 years of age or older may
14 manufacture, possess, and purchase cannabis accessories, and
15 distribute or sell cannabis accessories to a person who is 21
16 years of age or older.

17 Section 40. Lawful operation of cannabis-related
18 facilities.

19 (a) Notwithstanding any other provision of law, the
20 following acts, when performed by a retail cannabis store with
21 a current, valid registration, or a person 21 years of age or
22 older who is acting in his or her capacity as an owner,
23 employee, or agent of a retail cannabis store, are lawful and
24 shall not be an offense under State law or be a basis for

HB0902

- 8 -

LRB101 08006 RLC 53065 b

1 seizure or forfeiture of assets under State law:

2 (1) possessing, displaying, storing, or transporting
3 cannabis or cannabis products, provided that cannabis and
4 cannabis products may not be displayed in a manner that is
5 visible to the general public from a public right-of-way;

6 (2) purchasing cannabis from a cannabis cultivation
7 facility;

8 (3) purchasing cannabis or cannabis products from a
9 cannabis product manufacturing facility; and

10 (4) delivering, distributing, or selling cannabis or
11 cannabis products to consumers.

12 (b) Notwithstanding any other provision of law, the
13 following acts, when performed by a cannabis cultivation
14 facility with a current, valid registration, or a person 21
15 years of age or older who is acting in his or her capacity as an
16 owner, employee, or agent of a cannabis cultivation facility,
17 are lawful and shall not be an offense under State law or be a
18 basis for seizure or forfeiture of assets under State law:

19 (1) cultivating, harvesting, processing, packaging,
20

transporting, displaying, storing, or possessing cannabis;

21 (2) delivering or transferring cannabis to a cannabis
22 testing facility;

23 (3) delivering, distributing, or selling cannabis to a
24 cannabis cultivation facility, a cannabis product
25 manufacturing facility, or a retail cannabis store;

26 (4) receiving or purchasing cannabis from a cannabis

HB0902

- 9 -

LRB101 08006 RLC 53065 b

1 cultivation facility; and

2 (5) receiving cannabis seeds or immature cannabis
3 plants from a person 21 years of age or older.

4 (c) Notwithstanding any other provision of law, the
5 following acts, when performed by a product manufacturing
6 facility with a current, valid registration, or a person 21
7 years of age or older who is acting in his or her capacity as an
8 owner, employee, or agent of a product manufacturing facility,
9 are lawful and shall not be an offense under State law or be a
10 basis for seizure or forfeiture of assets under State law:

11 (1) packaging, processing, transporting,
12 manufacturing, displaying, or possessing cannabis or
13 cannabis products;

14 (2) delivering or transferring cannabis or cannabis
15 products to a cannabis testing facility;

16 (3) delivering or selling cannabis or cannabis
17 products to a retail cannabis store or a cannabis product
18 manufacturing facility;

19 (4) purchasing cannabis from a cannabis cultivation
20 facility;

21 (5) purchasing cannabis or cannabis products from a
22 cannabis product manufacturing facility; and

23 (6) leasing or otherwise allowing the use of property
24 owned, occupied, or controlled by any person, corporation,
25 or other entity for any of the activities conducted
26 lawfully under paragraphs (1) through (3) of this

1 subsection.

2 (d) Notwithstanding any other provision of law, the
3 following acts, when performed by a cannabis testing facility
4 with a current, valid registration, or a person 21 years of age
5 or older who is acting in his or her capacity as an owner,
6 employee, or agent of a cannabis testing facility, are lawful
7 and shall not be an offense under State law or be a basis for
8 seizure or forfeiture of assets under State law:

9 (1) possessing, cultivating, processing, repackaging,
10 storing, transporting, or displaying cannabis;

11 (2) receiving cannabis from a cannabis cultivation
12 facility, a cannabis retail store, a cannabis products
13 manufacturer, or a person 21 years of age or older;

14 (3) returning cannabis to a cannabis cultivation
15 facility, cannabis retail store, cannabis products
16 manufacturer, or a person 21 years of age or older; and

17 (4) leasing or otherwise allowing the use of property
18 owned, occupied, or controlled by any person, corporation,
19 or other entity for any of the activities conducted
20 lawfully under paragraphs (1) through (3) of this
21 subsection.

22 (e) Nothing in this Section prevents the imposition of
23 penalties for violating this Act or rules adopted by the
24 Department or localities under this Act.

25 Section 45. Rulemaking.

1 (a) Not later than 180 days after the effective date of
2 this Act, the Department shall adopt rules necessary for
3 implementation of this Act. The rules shall not prohibit the
4 operation of cannabis establishments, either expressly or
5 through rules that make their operation unreasonably
6 impracticable. The rules shall include:

7 (1) procedures for the issuance, renewal, suspension,

8 and revocation of a registration to operate a cannabis
9 establishment, with the procedures subject to all
10 requirements of the Illinois Administrative Procedure Act;

11 (2) a schedule of application, registration, and
12 renewal fees, provided, application fees shall not exceed
13 \$5,000, with this upper limit adjusted annually for
14 inflation, unless the Department determines a greater fee
15 is necessary to carry out its responsibilities under this
16 Act;

17 (3) qualifications for registration that are directly
18 and demonstrably related to the operation of a cannabis
19 establishment;

20 (4) security requirements for cannabis establishments,
21 including for the transportation of cannabis by cannabis
22 establishments;

23 (5) requirements to prevent the sale or diversion of
24 cannabis and cannabis products to persons under 21 years of
25 age;

26 (6) labeling requirements for cannabis and cannabis

1 products sold or distributed by a cannabis establishment;

2 (7) health and safety rules and standards for the
3 manufacture of cannabis products and both the indoor and
4 outdoor cultivation of cannabis by cannabis
5 establishments;

6 (8) restrictions on the advertising and display of
7 cannabis and cannabis products; and

8 (9) civil law violations for the failure to comply with
9 rules made under this Act.

10 (b) Not later than 180 days after the effective date of
11 this Act, the Department of Revenue shall adopt rules for
12 collecting taxes levied on cannabis cultivation facilities.

13 (c) In order to ensure that individual privacy is
14 protected, notwithstanding paragraph (1) of subsection (a) of
15 this Section, the Department shall not require a consumer to
16 provide a retail cannabis store with personal information other

17 than government-issued identification to determine the
18 consumer's age, and a retail cannabis store shall not be
19 required to acquire and record personal information about
20 consumers.

21 Section 50. Cannabis establishment registrations.

22 (a) Each application or renewal application for an annual
23 registration to operate a cannabis establishment shall be
24 submitted to the Department. A renewal application may be
25 submitted up to 90 days prior to the expiration of the cannabis

HB0902

- 13 -

LRB101 08006 RLC 53065 b

1 establishment's registration.

2 (b) The Department shall begin accepting and processing
3 applications to operate cannabis establishments one year after
4 the effective date of this Act.

5 (c) Upon receiving an application or renewal application
6 for a cannabis establishment, the Department shall immediately
7 forward a copy of each application and half of the registration
8 application fee to the local regulatory authority for the
9 locality in which the applicant desires to operate the cannabis
10 establishment, unless the locality has not designated a local
11 regulatory authority.

12 (d) Within 45 to 90 days after receiving an application or
13 renewal application, the Department shall issue an annual
14 registration to the applicant, unless the Department finds the
15 applicant is not in compliance with rules adopted under Section
16 45 of this Act or the Department is notified by the relevant
17 locality that the applicant is not in compliance with
18 ordinances and rules made under Section 55 of this Act and in
19 effect at the time of application.

20 (e) If a locality has enacted a numerical limit on the
21 number of cannabis establishments and a greater number of
22 applicants seek registration, the Department shall solicit and
23 consider input from the local regulatory authority as to the
24 locality's preference or preferences for registration.

25 (f) Upon denial of an application, the Department shall
26

1 denial.

2 (g) Every cannabis establishment registration shall
3 specify the location where the cannabis establishment will
4 operate. A separate registration shall be required for each
5 location at which a cannabis establishment operates.

6 (h) Cannabis establishments and the books and records
7 maintained and created by cannabis establishments are subject
8 to inspection by the Department.

9 (i) Until the Department adopts rules under this Act for
10 the issuance of licenses for cannabis cultivation facilities
11 and retail cannabis stores, a cultivation center or retail
12 cannabis store registered under the Compassionate Use of
13 Medical Cannabis Pilot Program Act is considered a licensed
14 cannabis cultivation facility or retail cannabis store under
15 this Act. After the Department adopts rules for the issuance of
16 licenses for cannabis cultivation facilities or retail
17 cannabis stores under this Act, the facility or store must
18 obtain a license under this Act.

19 Section 51. Licenses issued to cannabis cultivation
20 facilities and retail cannabis stores located in communities
21 disproportionately harmed by the war on drugs.

22 (a) In this Section, "community disproportionately harmed
23 by the war on drugs" means a census tract or tracts in which a
24 majority of the population is any of the following:

25 (1) Black or African American;

1 (2) American Indian or Alaska Native; or

2 (3) Hispanic or Latino.

3 (b) At least 51% of the licenses issued by the Department
4 of Agriculture for cannabis cultivation facilities and at least
5

51% of the licenses issued by the Department of Financial and Professional Regulation for retail cannabis stores shall be in communities disproportionately harmed by the war on drugs.

(c) The Department of Agriculture may not deny licenses for operation of cannabis cultivation facilities and the Department of Financial and Professional Regulation may not deny licenses for operation of retail cannabis stores to persons who apply for them to be located in communities disproportionately harmed by the war on drugs because of the applicants' prior felony convictions under the Cannabis Control Act, Illinois Controlled Substances Act, or Methamphetamine Control and Community Protection Act or similar federal laws or laws of another state or territory of the United States or any foreign country.

Section 52. Net income from cannabis cultivation facilities, retail cannabis stores, and on-site consumption facilities reinvested in local community.

(a) In this Section:

"Densely populated" means a population of over 10,000 people per square mile and having a total population of over 75,000.

HB0902

- 16 -

LRB101 08006 RLC 53065 b

"Local community" means an area located within a 5 mile radius of the facility's or store's location, except in areas that are densely populated, in which case "local community" means an area located within a one mile radius of the facility's or store's location,

"Net income" has the meaning ascribed to it in Section 202 of the Illinois Income Tax Act.

(b) At least 10% of the net income from a cannabis cultivation facility, at least 10% of the net income from a retail cannabis store, and at least 10% of the net income from an on-site consumption facility shall be reinvested in the local community where it operates.

Section 55. Local control.

14 (a) A locality may prohibit the operation of cannabis
15 cultivation facilities, cannabis product manufacturing
16 facilities, cannabis testing facilities, or retail cannabis
17 stores through the enactment of an ordinance or through an
18 initiated or referred measure, provided, any initiated or
19 referred measure to prohibit the operation of cannabis
20 cultivation facilities, cannabis product manufacturing
21 facilities, cannabis testing facilities, or retail cannabis
22 stores must appear on a general election ballot.

23 (b) A locality may enact ordinances or regulations not in
24 conflict with this Act, or with rules adopted under this Act,
25 governing the time, place, manner, and number of cannabis

HB0902

- 17 -

LRB101 08006 RLC 53065 b

1 establishment operations. A locality may punish as a civil law
2 violation of an ordinance or regulations governing the time,
3 place, and manner of a cannabis establishment that may operate
4 in the locality.

5 (c) A locality may designate a local regulatory authority
6 that is responsible for processing applications submitted for a
7 registration to operate a cannabis establishment within the
8 boundaries of the locality. The locality may provide that the
9 local regulatory authority may issue the registrations should
10 the issuance by the locality become necessary because of a
11 failure by the Department to adopt rules under Section 45 of
12 this Act or to accept or process applications under Section 50
13 of this Act.

14 (d) A locality may establish procedures for the issuance,
15 suspension, and revocation of a registration issued by the
16 locality under subsection (f) or subsection (g) of this
17 Section. These procedures are subject to all requirements of
18 the Illinois Administrative Procedure Act.

19 (e) A locality may establish a schedule of annual
20 operating, registration, and application fees for cannabis
21 establishments, provided, the application fee shall only be due
22 if an application is submitted to a locality under subsection
23 (f) of this Section and a registration fee shall only be due if
24

a registration is issued by a locality under subsection (f) or
(g) of this Section.

(f) If the Department does not issue a registration to an

HB0902

- 18 -

LRB101 08006 RLC 53065 b

1 applicant within 90 days of receipt of the application filed
2 under Section 50 of this Act and does not notify the applicant
3 of the specific, permissible reason for its denial, in writing
4 and within the time period, or if the Department has adopted
5 rules under Section 45 of this Act and has accepted
6 applications under Section 50 of this Act but has not issued
7 any registrations within 15 months after the effective date of
8 this Act, the applicant may resubmit its application directly
9 to the local regulatory authority, under subsection (c) of this
10 Section, and the local regulatory authority may issue an annual
11 registration to the applicant. If an application is submitted
12 to a local regulatory authority under this paragraph, the
13 Department shall forward to the local regulatory authority the
14 application fee paid by the applicant to the Department upon
15 request by the local regulatory authority.

16 (g) If the Department does not adopt rules required by
17 Section 45 of this Act, an applicant may submit an application
18 directly to a local regulatory authority after one year from
19 the effective date of this Act, and the local regulatory
20 authority may issue an annual registration to the applicant.

21 (h) A local regulatory authority issuing a registration to
22 an applicant shall do so within 90 days of receipt of the
23 submitted or resubmitted application, unless the local
24 regulatory authority finds and notifies the applicant that the
25 applicant is not in compliance with ordinances and regulations
26 made under subsection (b) of this Section in effect at the time

HB0902

- 19 -

LRB101 08006 RLC 53065 b

1 the application is submitted to the local regulatory authority.
2 The locality shall notify the Department if an annual

3 registration has been issued to the applicant.

4 (i) A registration issued by a locality under subsection
5 (f) or (g) of this Section shall have the same force and effect
6 as a registration issued by the Department under Section 50 of
7 this Act. The holder of the registration shall not be subject
8 to regulation or enforcement by the Department during the term
9 of that registration.

10 (j) A subsequent or renewed registration may be issued
11 under subsection (f) of this Section on an annual basis only
12 upon resubmission to the locality of a new application
13 submitted to the Department under Section 50 of this Act.

14 (k) A subsequent or renewed registration may be issued
15 under subsection (g) of this Section on an annual basis if the
16 Department has not adopted rules required by Section 45 of this
17 Act at least 90 days prior to the date upon which the
18 subsequent or renewed registration would be effective, or if
19 the Department has adopted rules under Section 45 of this Act
20 but has not, at least 90 days after the adoption of those
21 rules, issued registrations under Section 50 of this Act.

22 (l) A locality may create a license for or prohibit on-site
23 consumption of cannabis by persons legally able to purchase
24 cannabis at a retail cannabis store.

25 (m) Nothing in this Section limits the relief as may be
26 available to an aggrieved party under the Illinois

HB0902

- 20 -

LRB101 08006 RLC 53065 b

1 Administrative Procedure Act.

2 (n) A locality, including a home rule unit, may not
3 regulate the possession, sale, transfer, or cultivation of
4 cannabis in a manner less restrictive than the regulation by
5 the State of the possession, sale, transfer, or cultivation of
6 cannabis under this Act. This Section is a limitation under
7 subsection (i) of Section 6 of Article VII of the Illinois
8 Constitution on the concurrent exercise by home rule units of
9 powers and functions exercised by the State.

10 Section 60. Preserving the integrity of State law. The
11 Attorney General shall zealously and in good faith advocate to

12 quash any federal subpoena for records involving cannabis
13 establishments.

14 Section 65. Employers, minors, and control of property.

15 (a) Nothing in this Act requires an employer to permit or
16 accommodate the use, consumption, possession, transfer,
17 display, transportation, sale, or growing of cannabis in the
18 workplace or to affect the ability of employers to have
19 policies restricting the use of cannabis by employees or
20 discipline employees who are under the influence of cannabis in
21 the workplace.

22 (b) Nothing in this Act permits the transfer of cannabis,
23 with or without remuneration, to a person under 21 years of age
24 or to allow a person under 21 years of age to purchase,

HB0902

- 21 -

LRB101 08006 RLC 53065 b

1 possess, use, transport, grow, or consume cannabis.

2 (c) Nothing in this Act prohibits a person, employer,
3 school, hospital, detention facility, corporation, or any
4 other entity who occupies, owns, or controls a property from
5 prohibiting or otherwise regulating the possession,
6 consumption, use, display, transfer, distribution, sale,
7 transportation, or growing of cannabis on or in that property.

8 Section 70. Research authorized. Scientific and medical
9 researchers who have previously published may purchase,
10 possess, and securely store cannabis for purposes of conducting
11 research. Scientific and medical researchers may administer
12 and distribute cannabis to participants in research who are 21
13 years of age or older after receiving informed consent from the
14 subjects.

15 Section 75. Cannabis Regulation Fund. The Cannabis
16 Regulation Fund is created as a special fund in the State
17 treasury consisting of fees collected and fines imposed under
18 this Act. The Department of Agriculture and the Department of
19 Financial and Professional Regulation shall administer the
20 fund.

21 Section 80. Excise tax on cannabis.

22 (a) An excise tax is imposed on the sale or transfer of
23 cannabis from a cannabis cultivation facility to a retail

HB0902

- 22 -

LRB101 08006 RLC 53065 b

1 cannabis store or cannabis product manufacturing facility.
2 Each cannabis cultivation facility shall pay an excise tax at
3 the rate of 10% of the sale price of cannabis that is sold or
4 transferred from a cannabis cultivation facility to a retail
5 cannabis store or cannabis product manufacturing facility.

6 (b) The Department of Revenue shall adjust the rate
7 annually to account for inflation or deflation based on the
8 Consumer Price Index for All Urban Consumers as issued by the
9 United States Department of Labor. If the tax rate is changed
10 under this subsection (b), the Department of Revenue shall
11 publish the adjusted rate on its website and in a newspaper of
12 general circulation in the State not less than 60 days prior to
13 the effective date of the rate adjustment.

14 (c) On or before the 15th day of each month, each cannabis
15 cultivation facility shall pay to the Department of Revenue the
16 excise tax due under this Section on sales and transfers of
17 cannabis made by that cannabis cultivation facility in the
18 immediately preceding calendar month. Payment shall be
19 accompanied by a return filed in the form and manner prescribed
20 by the Department of Revenue and containing the information as
21 the Department of Revenue may require. The return must be
22 accompanied by appropriate computer-generated magnetic media
23 supporting schedule data in the format required by the
24 Department, unless, as provided by rule, the Department grants
25 an exception upon petition of a taxpayer.

26 (d) The provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e,

HB0902

- 23 -

LRB101 08006 RLC 53065 b

1 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 8, 9, 10, and 12 of the
2 Retailers' Occupation Tax Act which are not inconsistent with

3 this Act, and Section 3-7 of the Uniform Penalty and Interest
4 Act, shall apply as far as practicable to the tax imposed under
5 this Section to the same extent as if those provisions were
6 included in this Act.

7 Section 85. Distribution of excise tax proceeds. All moneys
8 received by the Department of Revenue under Section 80 of this
9 Act shall be deposited into the Cannabis Excise Tax Fund, a
10 special fund in the State treasury. Moneys in the Fund shall be
11 used by the Department of Agriculture and the Department of
12 Financial and Professional Regulation to implement and enforce
13 this Act. Within 90 days after the effective date of this Act
14 and every year thereafter, the Director of Revenue shall
15 certify the amounts needed to implement and enforce this Act by
16 the Department of Revenue, and the Comptroller shall order
17 transferred and the Treasurer shall transfer from the Cannabis
18 Excise Tax Fund the following amounts every 3 months:

19 (1) 30% shall be distributed to the Common School Fund to
20 be used at the discretion of the State Board of Education for
21 its duties prescribed by law;

22 (2) 5% percent shall be distributed to the Department of
23 Human Services for use in voluntary programs for the treatment
24 of alcohol, tobacco, and cannabis abuse;

25 (3) 5% percent shall be distributed to the Department of

1 Public Health for a scientifically and medically accurate
2 public education campaign educating youth and adults about the
3 health and safety risks of alcohol, tobacco, and cannabis;

4 (4) 50% percent shall be deposited into the General Revenue
5 Fund;

6 (5) 2.5% shall be distributed to the State Employees'
7 Retirement System of Illinois;

8 (6) 2.5% shall be distributed to the Teachers' Retirement
9 System of the State of Illinois;

10 (7) 2.5% shall be distributed to the State Universities
11 Retirement System; and

12 (8) 2.5% shall be distributed to the Department of State

13 Police for the employment and training of drug recognition
14 experts.

15 Section 90. Privileges and rights under the Compassionate
16 Use of Medical Cannabis Pilot Program Act. Nothing in this Act
17 shall be construed to limit any privileges or rights of a
18 medical cannabis qualifying patient, designated caregiver,
19 cultivation center, cultivation center agent, medical cannabis
20 dispensing organization, or medical cannabis dispensing
21 organization agent under the Compassionate Use of Medical
22 Cannabis Pilot Program Act.

23 Section 95. Nonviolent cannabis offenders; application for
24 commutation of sentence; dismissal of charges. A person

HB0902

- 25 -

LRB101 08006 RLC 53065 b

1 convicted of a violation of the Cannabis Control Act who is
2 serving a sentence in a correctional institution may, within 90
3 days after the effective date of this Act, file a petition for
4 commutation of his or her sentence under Section 3-3-13 of the
5 Unified Code of Corrections addressed to the Governor and filed
6 with the Prisoner Review Board. The petition shall be in
7 writing and signed by the person under conviction or by a
8 person on his or her behalf. It shall contain a brief history
9 of the case, the reasons for seeking executive clemency, and
10 other relevant information the Board may require. The person
11 may apply to the State's Attorney of the county where his or
12 her prosecution is pending for dismissal of any pending
13 cannabis charges against the person after a review of the
14 person's criminal record. Nonviolent offenders who have
15 violated the terms of their parole, mandatory supervised
16 release, probation, or conditional discharge for testing
17 positive for cannabis may also apply for commutation of their
18 sentences. The person may apply to: (i) the circuit court for
19 expungement of his or her arrest and conviction records; and
20 (ii) the State's Attorney for dismissal of any pending cannabis
21 charges against the person. The circuit court or State's
22 Attorney shall review the person's criminal record.

23 Section 100. Conflicting provisions. Except as otherwise
24 provided in this Act, in case of a conflict between this Act
25 and any other law or ordinance, the provisions of this Act

HB0902

- 26 -

LRB101 08006 RLC 53065 b

1 shall control.

2 Section 900. The Alcoholism and Other Drug Abuse and
3 Dependency Act is amended by changing Section 40-5 as follows:

4 (20 ILCS 301/40-5)

5 Sec. 40-5. Election of treatment. An individual with a
6 substance use disorder who is charged with or convicted of a
7 crime or any other person charged with or convicted of a
8 misdemeanor violation of the Use of Intoxicating Compounds Act
9 and who has not been previously convicted of a violation of
10 that Act may elect treatment under the supervision of a program
11 holding a valid intervention license for designated program
12 services issued by the Department, referred to in this Article
13 as "designated program", unless:

- 14 (1) the crime is a crime of violence;
- 15 (2) the crime is a violation of Section 401(a), 401(b),
16 401(c) where the person electing treatment has been
17 previously convicted of a non-probationable felony or the
18 violation is non-probationable, 401(d) where the violation
19 is non-probationable, 401.1, 402(a), 405 or 407 of the
20 Illinois Controlled Substances Act, or Section 12-7.3 of
21 the Criminal Code of 2012, or Section ~~4(d), 4(e), 4(f),~~
22 ~~4(g)~~ 5(d), 5(e), 5(f), 5(g), 5.1, 7 or 9 of the Cannabis
23 Control Act or Section 15, 20, 55, 60(b)(3), 60(b)(4),
24 60(b)(5), 60(b)(6), or 65 of the Methamphetamine Control

HB0902

- 27 -

LRB101 08006 RLC 53065 b

1 and Community Protection Act or is otherwise ineligible for

2 probation under Section 70 of the Methamphetamine Control
3 and Community Protection Act;

4 (3) the person has a record of 2 or more convictions of
5 a crime of violence;

6 (4) other criminal proceedings alleging commission of
7 a felony are pending against the person;

8 (5) the person is on probation or parole and the
9 appropriate parole or probation authority does not consent
10 to that election;

11 (6) the person elected and was admitted to a designated
12 program on 2 prior occasions within any consecutive 2-year
13 period;

14 (7) the person has been convicted of residential
15 burglary and has a record of one or more felony
16 convictions;

17 (8) the crime is a violation of Section 11-501 of the
18 Illinois Vehicle Code or a similar provision of a local
19 ordinance; or

20 (9) the crime is a reckless homicide or a reckless
21 homicide of an unborn child, as defined in Section 9-3 or
22 9-3.2 of the Criminal Code of 1961 or the Criminal Code of
23 2012, in which the cause of death consists of the driving
24 of a motor vehicle by a person under the influence of
25 alcohol or any other drug or drugs at the time of the
26 violation.

1 Nothing in this Section shall preclude an individual who is
2 charged with or convicted of a crime that is a violation of
3 Section 60(b)(1) or 60(b)(2) of the Methamphetamine Control and
4 Community Protection Act, and who is otherwise eligible to make
5 the election provided for under this Section, from being
6 eligible to make an election for treatment as a condition of
7 probation as provided for under this Article.

8 (Source: P.A. 99-78, eff. 7-20-15; 100-759, eff. 1-1-19.)

9 Section 905. The Criminal Identification Act is amended by

changing Sections 5 and 5.2 as follows:

(20 ILCS 2630/5) (from Ch. 38, par. 206-5)

Sec. 5. Arrest reports. All policing bodies of this State shall furnish to the Department, daily, in the form and detail the Department requires, fingerprints, descriptions, and ethnic and racial background data as provided in Section 4.5 of this Act of all persons who are arrested on charges of violating any penal statute of this State for offenses that are classified as felonies and Class A or B misdemeanors and of all minors of the age of 10 and over who have been arrested for an offense which would be a felony if committed by an adult, and may forward such fingerprints and descriptions for minors arrested for Class A or B misdemeanors. Moving or nonmoving traffic violations under the Illinois Vehicle Code shall not be reported except for violations of Chapter 4, Section 11-204.1,

HB0902

- 29 -

LRB101 08006 RLC 53065 b

or Section 11-501 of that Code. In addition, conservation offenses, as defined in the Supreme Court Rule 501(c), that are classified as Class B misdemeanors shall not be reported. Civil law violations of the Cannabis Legalization Equity Act, the Cannabis Control Act, and Section 111-3.1 of the Code of Criminal Procedure of 1963 shall not be reported. Those law enforcement records maintained by the Department for minors arrested for an offense prior to their 17th birthday, or minors arrested for a non-felony offense, if committed by an adult, prior to their 18th birthday, shall not be forwarded to the Federal Bureau of Investigation unless those records relate to an arrest in which a minor was charged as an adult under any of the transfer provisions of the Juvenile Court Act of 1987. (Source: P.A. 98-528, eff. 1-1-15.)

(20 ILCS 2630/5.2)

Sec. 5.2. Expungement, sealing, and immediate sealing.

(a) General Provisions.

(1) Definitions. In this Act, words and phrases have the meanings set forth in this subsection, except when a

20 particular context clearly requires a different meaning.

21 (A) The following terms shall have the meanings
22 ascribed to them in the Unified Code of Corrections,
23 730 ILCS 5/5-1-2 through 5/5-1-22:

- 24 (i) Business Offense (730 ILCS 5/5-1-2),
25 (ii) Charge (730 ILCS 5/5-1-3),

HB0902

- 30 -

LRB101 08006 RLC 53065 b

- 1 (iii) Court (730 ILCS 5/5-1-6),
2 (iv) Defendant (730 ILCS 5/5-1-7),
3 (v) Felony (730 ILCS 5/5-1-9),
4 (vi) Imprisonment (730 ILCS 5/5-1-10),
5 (vii) Judgment (730 ILCS 5/5-1-12),
6 (viii) Misdemeanor (730 ILCS 5/5-1-14),
7 (ix) Offense (730 ILCS 5/5-1-15),
8 (x) Parole (730 ILCS 5/5-1-16),
9 (xi) Petty Offense (730 ILCS 5/5-1-17),
10 (xii) Probation (730 ILCS 5/5-1-18),
11 (xiii) Sentence (730 ILCS 5/5-1-19),
12 (xiv) Supervision (730 ILCS 5/5-1-21), and
13 (xv) Victim (730 ILCS 5/5-1-22).

14 (B) As used in this Section, "charge not initiated
15 by arrest" means a charge (as defined by 730 ILCS
16 5/5-1-3) brought against a defendant where the
17 defendant is not arrested prior to or as a direct
18 result of the charge.

19 (C) "Conviction" means a judgment of conviction or
20 sentence entered upon a plea of guilty or upon a
21 verdict or finding of guilty of an offense, rendered by
22 a legally constituted jury or by a court of competent
23 jurisdiction authorized to try the case without a jury.
24 An order of supervision successfully completed by the
25 petitioner is not a conviction. An order of qualified
26 probation (as defined in subsection (a)(1)(J))

HB0902

- 31 -

LRB101 08006 RLC 53065 b

1 successfully completed by the petitioner is not a
2 conviction. An order of supervision or an order of
3 qualified probation that is terminated
4 unsatisfactorily is a conviction, unless the
5 unsatisfactory termination is reversed, vacated, or
6 modified and the judgment of conviction, if any, is
7 reversed or vacated.

8 (D) "Criminal offense" means a petty offense,
9 business offense, misdemeanor, felony, or municipal
10 ordinance violation (as defined in subsection
11 (a)(1)(H)). As used in this Section, a minor traffic
12 offense (as defined in subsection (a)(1)(G)) shall not
13 be considered a criminal offense.

14 (E) "Expunge" means to physically destroy the
15 records or return them to the petitioner and to
16 obliterate the petitioner's name from any official
17 index or public record, or both. Nothing in this Act
18 shall require the physical destruction of the circuit
19 court file, but such records relating to arrests or
20 charges, or both, ordered expunged shall be impounded
21 as required by subsections (d)(9)(A)(ii) and
22 (d)(9)(B)(ii).

23 (F) As used in this Section, "last sentence" means
24 the sentence, order of supervision, or order of
25 qualified probation (as defined by subsection
26 (a)(1)(J)), for a criminal offense (as defined by

1 subsection (a)(1)(D)) that terminates last in time in
2 any jurisdiction, regardless of whether the petitioner
3 has included the criminal offense for which the
4 sentence or order of supervision or qualified
5 probation was imposed in his or her petition. If
6 multiple sentences, orders of supervision, or orders
7 of qualified probation terminate on the same day and

8 are last in time, they shall be collectively considered
9 the "last sentence" regardless of whether they were
10 ordered to run concurrently.

11 (G) "Minor traffic offense" means a petty offense,
12 business offense, or Class C misdemeanor under the
13 Illinois Vehicle Code or a similar provision of a
14 municipal or local ordinance.

15 (H) "Municipal ordinance violation" means an
16 offense defined by a municipal or local ordinance that
17 is criminal in nature and with which the petitioner was
18 charged or for which the petitioner was arrested and
19 released without charging.

20 (I) "Petitioner" means an adult or a minor
21 prosecuted as an adult who has applied for relief under
22 this Section.

23 (J) "Qualified probation" means an order of
24 probation under Section 10 of the Cannabis Control Act,
25 Section 410 of the Illinois Controlled Substances Act,
26 Section 70 of the Methamphetamine Control and

1 Community Protection Act, Section 5-6-3.3 or 5-6-3.4
2 of the Unified Code of Corrections, Section
3 12-4.3(b)(1) and (2) of the Criminal Code of 1961 (as
4 those provisions existed before their deletion by
5 Public Act 89-313), Section 10-102 of the Illinois
6 Alcoholism and Other Drug Dependency Act, Section
7 40-10 of the Substance Use Disorder Act, or Section 10
8 of the Steroid Control Act. For the purpose of this
9 Section, "successful completion" of an order of
10 qualified probation under Section 10-102 of the
11 Illinois Alcoholism and Other Drug Dependency Act and
12 Section 40-10 of the Substance Use Disorder Act means
13 that the probation was terminated satisfactorily and
14 the judgment of conviction was vacated.

15 (K) "Seal" means to physically and electronically

16 maintain the records, unless the records would
17 otherwise be destroyed due to age, but to make the
18 records unavailable without a court order, subject to
19 the exceptions in Sections 12 and 13 of this Act. The
20 petitioner's name shall also be obliterated from the
21 official index required to be kept by the circuit court
22 clerk under Section 16 of the Clerks of Courts Act, but
23 any index issued by the circuit court clerk before the
24 entry of the order to seal shall not be affected.

25 (L) "Sexual offense committed against a minor"
26 includes but is not limited to the offenses of indecent

HB0902

- 34 -

LRB101 08006 RLC 53065 b

1 solicitation of a child or criminal sexual abuse when
2 the victim of such offense is under 18 years of age.

3 (M) "Terminate" as it relates to a sentence or
4 order of supervision or qualified probation includes
5 either satisfactory or unsatisfactory termination of
6 the sentence, unless otherwise specified in this
7 Section. A sentence is terminated notwithstanding any
8 outstanding financial legal obligation.

9 (2) Minor Traffic Offenses. Orders of supervision or
10 convictions for minor traffic offenses shall not affect a
11 petitioner's eligibility to expunge or seal records
12 pursuant to this Section.

13 (2.5) Commencing 180 days after July 29, 2016 (the
14 effective date of Public Act 99-697), the law enforcement
15 agency issuing the citation shall automatically expunge,
16 on or before January 1 and July 1 of each year, the law
17 enforcement records of a person found to have committed a
18 civil law violation of subsection (a) of Section 4 of the
19 Cannabis Control Act or subsection (c) of Section 3.5 of
20 the Drug Paraphernalia Control Act in the law enforcement
21 agency's possession or control and which contains the final
22 satisfactory disposition which pertain to the person
23 issued a citation for that offense. The law enforcement

24 agency shall provide by rule the process for access,
25 review, and to confirm the automatic expungement by the law
26 enforcement agency issuing the citation. Commencing 180

HB0902

- 35 -

LRB101 08006 RLC 53065 b

1 days after July 29, 2016 (the effective date of Public Act
2 99-697), the clerk of the circuit court shall expunge, upon
3 order of the court, or in the absence of a court order on
4 or before January 1 and July 1 of each year, the court
5 records of a person found in the circuit court to have
6 committed a civil law violation of subsection (a) of
7 Section 4 of the Cannabis Control Act or subsection (c) of
8 Section 3.5 of the Drug Paraphernalia Control Act in the
9 clerk's possession or control and which contains the final
10 satisfactory disposition which pertain to the person
11 issued a citation for any of those offenses.

12 (2.6) Commencing 180 days after the effective date of
13 this amendatory Act of the 101st General Assembly, the law
14 enforcement agency issuing the citation shall
15 automatically expunge, on or before January 1 and July 1 of
16 each year, the law enforcement records of a person found to
17 have committed a Class 4 felony or a Class A, B, or C
18 misdemeanor violation of the Cannabis Control Act in the
19 law enforcement agency's possession or control and which
20 contains the final satisfactory disposition which pertain
21 to the person issued a citation for that offense. The law
22 enforcement agency shall provide by rule the process for
23 access, review, and to confirm the automatic expungement by
24 the law enforcement agency issuing the citation.
25 Commencing 180 days after the effective date of this
26 amendatory Act of the 101st General Assembly, the clerk of

HB0902

- 36 -

LRB101 08006 RLC 53065 b

1 the circuit court shall expunge, upon order of the court,

2 or in the absence of a court order on or before January 1
3 and July 1 of each year, the court records of a person
4 found in the circuit court to have committed a Class 4
5 felony or a Class A, B, or C misdemeanor violation of the
6 Cannabis Control Act in the clerk's possession or control
7 and which contains the final satisfactory disposition
8 which pertain to the person issued a citation for any of
9 those offenses. This paragraph (2.6) applies to civil law
10 violations of the Cannabis Legalization Equity Act, the
11 Cannabis Control Act, and Section 111-3.1 of the Code of
12 Criminal Procedure of 1963 and any criminal violation that
13 would no longer be an offense under this amendatory Act of
14 the 101st General Assembly and any criminal violation
15 committed by a person under 21 years of age who if he or
16 she were 21 years of age or older would not be in violation
17 of law as result of this amendatory Act of the 101st
18 General Assembly. This paragraph (2.6) does not apply if in
19 the sentencing order for the cannabis violation the court
20 determined that the conduct that gave rise to the
21 conviction occurred during the commission of a crime of
22 violence as defined in Section 2 of the Crime Victims
23 Compensation Act.

24 (3) Exclusions. Except as otherwise provided in
25 subsections (b)(5), (b)(6), (b)(8), (e), (e-5), and (e-6)
26 of this Section, the court shall not order:

1 (A) the sealing or expungement of the records of
2 arrests or charges not initiated by arrest that result
3 in an order of supervision for or conviction of: (i)
4 any sexual offense committed against a minor; (ii)
5 Section 11-501 of the Illinois Vehicle Code or a
6 similar provision of a local ordinance; or (iii)
7 Section 11-503 of the Illinois Vehicle Code or a
8 similar provision of a local ordinance, unless the
9 arrest or charge is for a misdemeanor violation of

10 subsection (a) of Section 11-503 or a similar provision
11 of a local ordinance, that occurred prior to the
12 offender reaching the age of 25 years and the offender
13 has no other conviction for violating Section 11-501 or
14 11-503 of the Illinois Vehicle Code or a similar
15 provision of a local ordinance.

16 (B) the sealing or expungement of records of minor
17 traffic offenses (as defined in subsection (a)(1)(G)),
18 unless the petitioner was arrested and released
19 without charging.

20 (C) the sealing of the records of arrests or
21 charges not initiated by arrest which result in an
22 order of supervision or a conviction for the following
23 offenses:

24 (i) offenses included in Article 11 of the
25 Criminal Code of 1961 or the Criminal Code of 2012
26 or a similar provision of a local ordinance, except

HB0902

- 38 -

LRB101 08006 RLC 53065 b

1 Section 11-14 and a misdemeanor violation of
2 Section 11-30 of the Criminal Code of 1961 or the
3 Criminal Code of 2012, or a similar provision of a
4 local ordinance;

5 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,
6 26-5, or 48-1 of the Criminal Code of 1961 or the
7 Criminal Code of 2012, or a similar provision of a
8 local ordinance;

9 (iii) Sections 12-3.1 or 12-3.2 of the
10 Criminal Code of 1961 or the Criminal Code of 2012,
11 or Section 125 of the Stalking No Contact Order
12 Act, or Section 219 of the Civil No Contact Order
13 Act, or a similar provision of a local ordinance;

14 (iv) Class A misdemeanors or felony offenses
15 under the Humane Care for Animals Act; or

16 (v) any offense or attempted offense that
17 would subject a person to registration under the

(D) (blank).

(b) Expungement.

(1) A petitioner may petition the circuit court to expunge the records of his or her arrests and charges not initiated by arrest when each arrest or charge not initiated by arrest sought to be expunged resulted in: (i) acquittal, dismissal, or the petitioner's release without charging, unless excluded by subsection (a)(3)(B); (ii) a

HB0902

- 39 -

LRB101 08006 RLC 53065 b

conviction which was vacated or reversed, unless excluded by subsection (a)(3)(B); (iii) an order of supervision and such supervision was successfully completed by the petitioner, unless excluded by subsection (a)(3)(A) or (a)(3)(B); or (iv) an order of qualified probation (as defined in subsection (a)(1)(J)) and such probation was successfully completed by the petitioner.

(1.5) When a petitioner seeks to have a record of arrest expunged under this Section, and the offender has been convicted of a criminal offense, the State's Attorney may object to the expungement on the grounds that the records contain specific relevant information aside from the mere fact of the arrest.

(2) Time frame for filing a petition to expunge.

(A) When the arrest or charge not initiated by arrest sought to be expunged resulted in an acquittal, dismissal, the petitioner's release without charging, or the reversal or vacation of a conviction, there is no waiting period to petition for the expungement of such records.

(B) When the arrest or charge not initiated by arrest sought to be expunged resulted in an order of supervision, successfully completed by the petitioner, the following time frames will apply:

(i) Those arrests or charges that resulted in

1 3-710, or 5-401.3 of the Illinois Vehicle Code or a
 2 similar provision of a local ordinance, or under
 3 Section 11-1.50, 12-3.2, or 12-15 of the Criminal
 4 Code of 1961 or the Criminal Code of 2012, or a
 5 similar provision of a local ordinance, shall not
 6 be eligible for expungement until 5 years have
 7 passed following the satisfactory termination of
 8 the supervision.

9 (i-5) Those arrests or charges that resulted
 10 in orders of supervision for a misdemeanor
 11 violation of subsection (a) of Section 11-503 of
 12 the Illinois Vehicle Code or a similar provision of
 13 a local ordinance, that occurred prior to the
 14 offender reaching the age of 25 years and the
 15 offender has no other conviction for violating
 16 Section 11-501 or 11-503 of the Illinois Vehicle
 17 Code or a similar provision of a local ordinance
 18 shall not be eligible for expungement until the
 19 petitioner has reached the age of 25 years.

20 (ii) Those arrests or charges that resulted in
 21 orders of supervision for any other offenses shall
 22 not be eligible for expungement until 2 years have
 23 passed following the satisfactory termination of
 24 the supervision.

25 (C) When the arrest or charge not initiated by
 26 arrest sought to be expunged resulted in an order of

1 qualified probation, successfully completed by the
 2 petitioner, such records shall not be eligible for
 3 expungement until 5 years have passed following the

4 satisfactory termination of the probation.

5 (3) Those records maintained by the Department for
6 persons arrested prior to their 17th birthday shall be
7 expunged as provided in Section 5-915 of the Juvenile Court
8 Act of 1987.

9 (4) Whenever a person has been arrested for or
10 convicted of any offense, in the name of a person whose
11 identity he or she has stolen or otherwise come into
12 possession of, the aggrieved person from whom the identity
13 was stolen or otherwise obtained without authorization,
14 upon learning of the person having been arrested using his
15 or her identity, may, upon verified petition to the Chief
16 Judge ~~chief judge~~ of the circuit wherein the arrest was
17 made, have a court order entered nunc pro tunc by the Chief
18 Judge to correct the arrest record, conviction record, if
19 any, and all official records of the arresting authority,
20 the Department, other criminal justice agencies, the
21 prosecutor, and the trial court concerning such arrest, if
22 any, by removing his or her name from all such records in
23 connection with the arrest and conviction, if any, and by
24 inserting in the records the name of the offender, if known
25 or ascertainable, in lieu of the aggrieved's name. The
26 records of the circuit court clerk shall be sealed until

1 further order of the court upon good cause shown and the
2 name of the aggrieved person obliterated on the official
3 index required to be kept by the circuit court clerk under
4 Section 16 of the Clerks of Courts Act, but the order shall
5 not affect any index issued by the circuit court clerk
6 before the entry of the order. Nothing in this Section
7 shall limit the Department of State Police or other
8 criminal justice agencies or prosecutors from listing
9 under an offender's name the false names he or she has
10 used.

11 (5) Whenever a person has been convicted of criminal

12 sexual assault, aggravated criminal sexual assault,
13 predatory criminal sexual assault of a child, criminal
14 sexual abuse, or aggravated criminal sexual abuse, the
15 victim of that offense may request that the State's
16 Attorney of the county in which the conviction occurred
17 file a verified petition with the presiding trial judge at
18 the petitioner's trial to have a court order entered to
19 seal the records of the circuit court clerk in connection
20 with the proceedings of the trial court concerning that
21 offense. However, the records of the arresting authority
22 and the Department of State Police concerning the offense
23 shall not be sealed. The court, upon good cause shown,
24 shall make the records of the circuit court clerk in
25 connection with the proceedings of the trial court
26 concerning the offense available for public inspection.

HB0902

- 43 -

LRB101 08006 RLC 53065 b

1 (6) If a conviction has been set aside on direct review
2 or on collateral attack and the court determines by clear
3 and convincing evidence that the petitioner was factually
4 innocent of the charge, the court that finds the petitioner
5 factually innocent of the charge shall enter an expungement
6 order for the conviction for which the petitioner has been
7 determined to be innocent as provided in subsection (b) of
8 Section 5-5-4 of the Unified Code of Corrections.

9 (7) Nothing in this Section shall prevent the
10 Department of State Police from maintaining all records of
11 any person who is admitted to probation upon terms and
12 conditions and who fulfills those terms and conditions
13 pursuant to Section 10 of the Cannabis Control Act, Section
14 410 of the Illinois Controlled Substances Act, Section 70
15 of the Methamphetamine Control and Community Protection
16 Act, Section 5-6-3.3 or 5-6-3.4 of the Unified Code of
17 Corrections, Section 12-4.3 or subdivision (b)(1) of
18 Section 12-3.05 of the Criminal Code of 1961 or the
19 Criminal Code of 2012, Section 10-102 of the Illinois

20 Alcoholism and Other Drug Dependency Act, Section 40-10 of
21 the Substance Use Disorder Act, or Section 10 of the
22 Steroid Control Act.

23 (8) If the petitioner has been granted a certificate of
24 innocence under Section 2-702 of the Code of Civil
25 Procedure, the court that grants the certificate of
26 innocence shall also enter an order expunging the

HB0902

- 44 -

LRB101 08006 RLC 53065 b

1 conviction for which the petitioner has been determined to
2 be innocent as provided in subsection (h) of Section 2-702
3 of the Code of Civil Procedure.

4 (c) Sealing.

5 (1) Applicability. Notwithstanding any other provision
6 of this Act to the contrary, and cumulative with any rights
7 to expungement of criminal records, this subsection
8 authorizes the sealing of criminal records of adults and of
9 minors prosecuted as adults. Subsection (g) of this Section
10 provides for immediate sealing of certain records.

11 (2) Eligible Records. The following records may be
12 sealed:

13 (A) All arrests resulting in release without
14 charging;

15 (B) Arrests or charges not initiated by arrest
16 resulting in acquittal, dismissal, or conviction when
17 the conviction was reversed or vacated, except as
18 excluded by subsection (a)(3)(B);

19 (C) Arrests or charges not initiated by arrest
20 resulting in orders of supervision, including orders
21 of supervision for municipal ordinance violations,
22 successfully completed by the petitioner, unless
23 excluded by subsection (a)(3);

24 (D) Arrests or charges not initiated by arrest
25 resulting in convictions, including convictions on
26 municipal ordinance violations, unless excluded by

1 subsection (a)(3);

2 (E) Arrests or charges not initiated by arrest
3 resulting in orders of first offender probation under
4 Section 10 of the Cannabis Control Act, Section 410 of
5 the Illinois Controlled Substances Act, Section 70 of
6 the Methamphetamine Control and Community Protection
7 Act, or Section 5-6-3.3 of the Unified Code of
8 Corrections; and

9 (F) Arrests or charges not initiated by arrest
10 resulting in felony convictions unless otherwise
11 excluded by subsection (a) paragraph (3) of this
12 Section.

13 (3) When Records Are Eligible to Be Sealed. Records
14 identified as eligible under subsection (c)(2) may be
15 sealed as follows:

16 (A) Records identified as eligible under
17 subsection (c)(2)(A) and (c)(2)(B) may be sealed at any
18 time.

19 (B) Except as otherwise provided in subparagraph
20 (E) of this paragraph (3), records identified as
21 eligible under subsection (c)(2)(C) may be sealed 2
22 years after the termination of petitioner's last
23 sentence (as defined in subsection (a)(1)(F)).

24 (C) Except as otherwise provided in subparagraph
25 (E) of this paragraph (3), records identified as
26 eligible under subsections (c)(2)(D), (c)(2)(E), and

1 (c)(2)(F) may be sealed 3 years after the termination
2 of the petitioner's last sentence (as defined in
3 subsection (a)(1)(F)). Convictions requiring public
4 registration under the Arsonist Registration Act, the
5 Sex Offender Registration Act, or the Murderer and

6 Violent Offender Against Youth Registration Act may
7 not be sealed until the petitioner is no longer
8 required to register under that relevant Act.

9 (D) Records identified in subsection
10 (a)(3)(A)(iii) may be sealed after the petitioner has
11 reached the age of 25 years.

12 (E) Records identified as eligible under
13 subsections (c)(2)(C), (c)(2)(D), (c)(2)(E), or
14 (c)(2)(F) may be sealed upon termination of the
15 petitioner's last sentence if the petitioner earned a
16 high school diploma, associate's degree, career
17 certificate, vocational technical certification, or
18 bachelor's degree, or passed the high school level Test
19 of General Educational Development, during the period
20 of his or her sentence, aftercare release, or mandatory
21 supervised release. This subparagraph shall apply only
22 to a petitioner who has not completed the same
23 educational goal prior to the period of his or her
24 sentence, aftercare release, or mandatory supervised
25 release. If a petition for sealing eligible records
26 filed under this subparagraph is denied by the court,

HB0902

- 47 -

LRB101 08006 RLC 53065 b

1 the time periods under subparagraph (B) or (C) shall
2 apply to any subsequent petition for sealing filed by
3 the petitioner.

4 (4) Subsequent felony convictions. A person may not
5 have subsequent felony conviction records sealed as
6 provided in this subsection (c) if he or she is convicted
7 of any felony offense after the date of the sealing of
8 prior felony convictions as provided in this subsection
9 (c). The court may, upon conviction for a subsequent felony
10 offense, order the unsealing of prior felony conviction
11 records previously ordered sealed by the court.

12 (5) Notice of eligibility for sealing. Upon entry of a
13 disposition for an eligible record under this subsection

14 (c), the petitioner shall be informed by the court of the
15 right to have the records sealed and the procedures for the
16 sealing of the records.

17 (d) Procedure. The following procedures apply to
18 expungement under subsections (b), (e), and (e-6) and sealing
19 under subsections (c) and (e-5):

20 (1) Filing the petition. Upon becoming eligible to
21 petition for the expungement or sealing of records under
22 this Section, the petitioner shall file a petition
23 requesting the expungement or sealing of records with the
24 clerk of the court where the arrests occurred or the
25 charges were brought, or both. If arrests occurred or
26 charges were brought in multiple jurisdictions, a petition

HB0902

- 48 -

LRB101 08006 RLC 53065 b

1 must be filed in each such jurisdiction. The petitioner
2 shall pay the applicable fee, except no fee shall be
3 required if the petitioner has obtained a court order
4 waiving fees under Supreme Court Rule 298 or it is
5 otherwise waived.

6 (1.5) County fee waiver pilot program. In a county of
7 3,000,000 or more inhabitants, no fee shall be required to
8 be paid by a petitioner if the records sought to be
9 expunged or sealed were arrests resulting in release
10 without charging or arrests or charges not initiated by
11 arrest resulting in acquittal, dismissal, or conviction
12 when the conviction was reversed or vacated, unless
13 excluded by subsection (a)(3)(B). The provisions of this
14 paragraph (1.5), other than this sentence, are inoperative
15 on and after January 1, 2019.

16 (2) Contents of petition. The petition shall be
17 verified and shall contain the petitioner's name, date of
18 birth, current address and, for each arrest or charge not
19 initiated by arrest sought to be sealed or expunged, the
20 case number, the date of arrest (if any), the identity of
21 the arresting authority, and such other information as the

22 court may require. During the pendency of the proceeding,
23 the petitioner shall promptly notify the circuit court
24 clerk of any change of his or her address. If the
25 petitioner has received a certificate of eligibility for
26 sealing from the Prisoner Review Board under paragraph (10)

HB0902

- 49 -

LRB101 08006 RLC 53065 b

1 of subsection (a) of Section 3-3-2 of the Unified Code of
2 Corrections, the certificate shall be attached to the
3 petition.

4 (3) Drug test. The petitioner must attach to the
5 petition proof that the petitioner has passed a test taken
6 within 30 days before the filing of the petition showing
7 the absence within his or her body of all illegal
8 substances as defined by the Illinois Controlled
9 Substances Act, the Methamphetamine Control and Community
10 Protection Act, and the Cannabis Control Act if he or she
11 is petitioning to:

12 (A) seal felony records under clause (c)(2)(E);

13 (B) seal felony records for a violation of the
14 Illinois Controlled Substances Act, the
15 Methamphetamine Control and Community Protection Act,
16 or the Cannabis Control Act under clause (c)(2)(F);

17 (C) seal felony records under subsection (e-5); or

18 (D) expunge felony records of a qualified
19 probation under clause (b)(1)(iv).

20 (4) Service of petition. The circuit court clerk shall
21 promptly serve a copy of the petition and documentation to
22 support the petition under subsection (e-5) or (e-6) on the
23 State's Attorney or prosecutor charged with the duty of
24 prosecuting the offense, the Department of State Police,
25 the arresting agency and the chief legal officer of the
26 unit of local government effecting the arrest.

HB0902

- 50 -

LRB101 08006 RLC 53065 b

1 (5) Objections.

2 (A) Any party entitled to notice of the petition
3 may file an objection to the petition. All objections
4 shall be in writing, shall be filed with the circuit
5 court clerk, and shall state with specificity the basis
6 of the objection. Whenever a person who has been
7 convicted of an offense is granted a pardon by the
8 Governor which specifically authorizes expungement, an
9 objection to the petition may not be filed.

10 (B) Objections to a petition to expunge or seal
11 must be filed within 60 days of the date of service of
12 the petition.

13 (6) Entry of order.

14 (A) The Chief Judge of the circuit wherein the
15 charge was brought, any judge of that circuit
16 designated by the Chief Judge, or in counties of less
17 than 3,000,000 inhabitants, the presiding trial judge
18 at the petitioner's trial, if any, shall rule on the
19 petition to expunge or seal as set forth in this
20 subsection (d)(6).

21 (B) Unless the State's Attorney or prosecutor, the
22 Department of State Police, the arresting agency, or
23 the chief legal officer files an objection to the
24 petition to expunge or seal within 60 days from the
25 date of service of the petition, the court shall enter
26 an order granting or denying the petition.

1 (C) Notwithstanding any other provision of law,
2 the court shall not deny a petition for sealing under
3 this Section because the petitioner has not satisfied
4 an outstanding legal financial obligation established,
5 imposed, or originated by a court, law enforcement
6 agency, or a municipal, State, county, or other unit of
7 local government, including, but not limited to, any

8 cost, assessment, fine, or fee. An outstanding legal
9 financial obligation does not include any court
10 ordered restitution to a victim under Section 5-5-6 of
11 the Unified Code of Corrections, unless the
12 restitution has been converted to a civil judgment.
13 Nothing in this subparagraph (C) waives, rescinds, or
14 abrogates a legal financial obligation or otherwise
15 eliminates or affects the right of the holder of any
16 financial obligation to pursue collection under
17 applicable federal, State, or local law.

18 (7) Hearings. If an objection is filed, the court shall
19 set a date for a hearing and notify the petitioner and all
20 parties entitled to notice of the petition of the hearing
21 date at least 30 days prior to the hearing. Prior to the
22 hearing, the State's Attorney shall consult with the
23 Department as to the appropriateness of the relief sought
24 in the petition to expunge or seal. At the hearing, the
25 court shall hear evidence on whether the petition should or
26 should not be granted, and shall grant or deny the petition

1 to expunge or seal the records based on the evidence
2 presented at the hearing. The court may consider the
3 following:

4 (A) the strength of the evidence supporting the
5 defendant's conviction;

6 (B) the reasons for retention of the conviction
7 records by the State;

8 (C) the petitioner's age, criminal record history,
9 and employment history;

10 (D) the period of time between the petitioner's
11 arrest on the charge resulting in the conviction and
12 the filing of the petition under this Section; and

13 (E) the specific adverse consequences the
14 petitioner may be subject to if the petition is denied.

15 (8) Service of order. After entering an order to

16 expunge or seal records, the court must provide copies of
17 the order to the Department, in a form and manner
18 prescribed by the Department, to the petitioner, to the
19 State's Attorney or prosecutor charged with the duty of
20 prosecuting the offense, to the arresting agency, to the
21 chief legal officer of the unit of local government
22 effecting the arrest, and to such other criminal justice
23 agencies as may be ordered by the court.

24 (9) Implementation of order.

25 (A) Upon entry of an order to expunge records
26 pursuant to (b)(2)(A) or (b)(2)(B)(ii), or both:

HB0902

- 53 -

LRB101 08006 RLC 53065 b

1 (i) the records shall be expunged (as defined
2 in subsection (a)(1)(E)) by the arresting agency,
3 the Department, and any other agency as ordered by
4 the court, within 60 days of the date of service of
5 the order, unless a motion to vacate, modify, or
6 reconsider the order is filed pursuant to
7 paragraph (12) of subsection (d) of this Section;

8 (ii) the records of the circuit court clerk
9 shall be impounded until further order of the court
10 upon good cause shown and the name of the
11 petitioner obliterated on the official index
12 required to be kept by the circuit court clerk
13 under Section 16 of the Clerks of Courts Act, but
14 the order shall not affect any index issued by the
15 circuit court clerk before the entry of the order;
16 and

17 (iii) in response to an inquiry for expunged
18 records, the court, the Department, or the agency
19 receiving such inquiry, shall reply as it does in
20 response to inquiries when no records ever
21 existed.

22 (B) Upon entry of an order to expunge records
23 pursuant to (b)(2)(B)(i) or (b)(2)(C), or both:

24 (i) the records shall be expunged (as defined
25 in subsection (a)(1)(E)) by the arresting agency
26 and any other agency as ordered by the court,

HB0902

- 54 -

LRB101 08006 RLC 53065 b

1 within 60 days of the date of service of the order,
2 unless a motion to vacate, modify, or reconsider
3 the order is filed pursuant to paragraph (12) of
4 subsection (d) of this Section;

5 (ii) the records of the circuit court clerk
6 shall be impounded until further order of the court
7 upon good cause shown and the name of the
8 petitioner obliterated on the official index
9 required to be kept by the circuit court clerk
10 under Section 16 of the Clerks of Courts Act, but
11 the order shall not affect any index issued by the
12 circuit court clerk before the entry of the order;

13 (iii) the records shall be impounded by the
14 Department within 60 days of the date of service of
15 the order as ordered by the court, unless a motion
16 to vacate, modify, or reconsider the order is filed
17 pursuant to paragraph (12) of subsection (d) of
18 this Section;

19 (iv) records impounded by the Department may
20 be disseminated by the Department only as required
21 by law or to the arresting authority, the State's
22 Attorney, and the court upon a later arrest for the
23 same or a similar offense or for the purpose of
24 sentencing for any subsequent felony, and to the
25 Department of Corrections upon conviction for any
26 offense; and

HB0902

- 55 -

LRB101 08006 RLC 53065 b

1 (v) in response to an inquiry for such records

2 from anyone not authorized by law to access such
3 records, the court, the Department, or the agency
4 receiving such inquiry shall reply as it does in
5 response to inquiries when no records ever
6 existed.

7 (B-5) Upon entry of an order to expunge records
8 under subsection (e-6):

9 (i) the records shall be expunged (as defined
10 in subsection (a)(1)(E)) by the arresting agency
11 and any other agency as ordered by the court,
12 within 60 days of the date of service of the order,
13 unless a motion to vacate, modify, or reconsider
14 the order is filed under paragraph (12) of
15 subsection (d) of this Section;

16 (ii) the records of the circuit court clerk
17 shall be impounded until further order of the court
18 upon good cause shown and the name of the
19 petitioner obliterated on the official index
20 required to be kept by the circuit court clerk
21 under Section 16 of the Clerks of Courts Act, but
22 the order shall not affect any index issued by the
23 circuit court clerk before the entry of the order;

24 (iii) the records shall be impounded by the
25 Department within 60 days of the date of service of
26 the order as ordered by the court, unless a motion

1 to vacate, modify, or reconsider the order is filed
2 under paragraph (12) of subsection (d) of this
3 Section;

4 (iv) records impounded by the Department may
5 be disseminated by the Department only as required
6 by law or to the arresting authority, the State's
7 Attorney, and the court upon a later arrest for the
8 same or a similar offense or for the purpose of
9 sentencing for any subsequent felony, and to the

10 Department of Corrections upon conviction for any
11 offense; and

12 (v) in response to an inquiry for these records
13 from anyone not authorized by law to access the
14 records, the court, the Department, or the agency
15 receiving the inquiry shall reply as it does in
16 response to inquiries when no records ever
17 existed.

18 (C) Upon entry of an order to seal records under
19 subsection (c), the arresting agency, any other agency
20 as ordered by the court, the Department, and the court
21 shall seal the records (as defined in subsection
22 (a)(1)(K)). In response to an inquiry for such records,
23 from anyone not authorized by law to access such
24 records, the court, the Department, or the agency
25 receiving such inquiry shall reply as it does in
26 response to inquiries when no records ever existed.

HB0902

- 57 -

LRB101 08006 RLC 53065 b

1 (D) The Department shall send written notice to the
2 petitioner of its compliance with each order to expunge
3 or seal records within 60 days of the date of service
4 of that order or, if a motion to vacate, modify, or
5 reconsider is filed, within 60 days of service of the
6 order resolving the motion, if that order requires the
7 Department to expunge or seal records. In the event of
8 an appeal from the circuit court order, the Department
9 shall send written notice to the petitioner of its
10 compliance with an Appellate Court or Supreme Court
11 judgment to expunge or seal records within 60 days of
12 the issuance of the court's mandate. The notice is not
13 required while any motion to vacate, modify, or
14 reconsider, or any appeal or petition for
15 discretionary appellate review, is pending.

16 (E) Upon motion, the court may order that a sealed
17 judgment or other court record necessary to

18 demonstrate the amount of any legal financial
19 obligation due and owing be made available for the
20 limited purpose of collecting any legal financial
21 obligations owed by the petitioner that were
22 established, imposed, or originated in the criminal
23 proceeding for which those records have been sealed.
24 The records made available under this subparagraph (E)
25 shall not be entered into the official index required
26 to be kept by the circuit court clerk under Section 16

HB0902

- 58 -

LRB101 08006 RLC 53065 b

1 of the Clerks of Courts Act and shall be immediately
2 re-impounded upon the collection of the outstanding
3 financial obligations.

4 (F) Notwithstanding any other provision of this
5 Section, a circuit court clerk may access a sealed
6 record for the limited purpose of collecting payment
7 for any legal financial obligations that were
8 established, imposed, or originated in the criminal
9 proceedings for which those records have been sealed.

10 (10) Fees. The Department may charge the petitioner a
11 fee equivalent to the cost of processing any order to
12 expunge or seal records. Notwithstanding any provision of
13 the Clerks of Courts Act to the contrary, the circuit court
14 clerk may charge a fee equivalent to the cost associated
15 with the sealing or expungement of records by the circuit
16 court clerk. From the total filing fee collected for the
17 petition to seal or expunge, the circuit court clerk shall
18 deposit \$10 into the Circuit Court Clerk Operation and
19 Administrative Fund, to be used to offset the costs
20 incurred by the circuit court clerk in performing the
21 additional duties required to serve the petition to seal or
22 expunge on all parties. The circuit court clerk shall
23 collect and forward the Department of State Police portion
24 of the fee to the Department and it shall be deposited in
25 the State Police Services Fund. If the record brought under

1 Section, the fee for the expungement petition for that same
2 record shall be waived.

3 (11) Final Order. No court order issued under the
4 expungement or sealing provisions of this Section shall
5 become final for purposes of appeal until 30 days after
6 service of the order on the petitioner and all parties
7 entitled to notice of the petition.

8 (12) Motion to Vacate, Modify, or Reconsider. Under
9 Section 2-1203 of the Code of Civil Procedure, the
10 petitioner or any party entitled to notice may file a
11 motion to vacate, modify, or reconsider the order granting
12 or denying the petition to expunge or seal within 60 days
13 of service of the order. If filed more than 60 days after
14 service of the order, a petition to vacate, modify, or
15 reconsider shall comply with subsection (c) of Section
16 2-1401 of the Code of Civil Procedure. Upon filing of a
17 motion to vacate, modify, or reconsider, notice of the
18 motion shall be served upon the petitioner and all parties
19 entitled to notice of the petition.

20 (13) Effect of Order. An order granting a petition
21 under the expungement or sealing provisions of this Section
22 shall not be considered void because it fails to comply
23 with the provisions of this Section or because of any error
24 asserted in a motion to vacate, modify, or reconsider. The
25 circuit court retains jurisdiction to determine whether
26 the order is voidable and to vacate, modify, or reconsider

1 its terms based on a motion filed under paragraph (12) of
2 this subsection (d).

3 (14) Compliance with Order Granting Petition to Seal

4 Records. Unless a court has entered a stay of an order
5 granting a petition to seal, all parties entitled to notice
6 of the petition must fully comply with the terms of the
7 order within 60 days of service of the order even if a
8 party is seeking relief from the order through a motion
9 filed under paragraph (12) of this subsection (d) or is
10 appealing the order.

11 (15) Compliance with Order Granting Petition to
12 Expunge Records. While a party is seeking relief from the
13 order granting the petition to expunge through a motion
14 filed under paragraph (12) of this subsection (d) or is
15 appealing the order, and unless a court has entered a stay
16 of that order, the parties entitled to notice of the
17 petition must seal, but need not expunge, the records until
18 there is a final order on the motion for relief or, in the
19 case of an appeal, the issuance of that court's mandate.

20 (16) The changes to this subsection (d) made by Public
21 Act 98-163 apply to all petitions pending on August 5, 2013
22 (the effective date of Public Act 98-163) and to all orders
23 ruling on a petition to expunge or seal on or after August
24 5, 2013 (the effective date of Public Act 98-163).

25 (e) Whenever a person who has been convicted of an offense
26 is granted a pardon by the Governor which specifically

1 authorizes expungement, he or she may, upon verified petition
2 to the Chief Judge of the circuit where the person had been
3 convicted, any judge of the circuit designated by the Chief
4 Judge, or in counties of less than 3,000,000 inhabitants, the
5 presiding trial judge at the defendant's trial, have a court
6 order entered expunging the record of arrest from the official
7 records of the arresting authority and order that the records
8 of the circuit court clerk and the Department be sealed until
9 further order of the court upon good cause shown or as
10 otherwise provided herein, and the name of the defendant
11 obliterated from the official index requested to be kept by the
12 circuit court clerk under Section 16 of the Clerks of Courts

13 Act in connection with the arrest and conviction for the
14 offense for which he or she had been pardoned but the order
15 shall not affect any index issued by the circuit court clerk
16 before the entry of the order. All records sealed by the
17 Department may be disseminated by the Department only to the
18 arresting authority, the State's Attorney, and the court upon a
19 later arrest for the same or similar offense or for the purpose
20 of sentencing for any subsequent felony. Upon conviction for
21 any subsequent offense, the Department of Corrections shall
22 have access to all sealed records of the Department pertaining
23 to that individual. Upon entry of the order of expungement, the
24 circuit court clerk shall promptly mail a copy of the order to
25 the person who was pardoned.

26 (e-5) Whenever a person who has been convicted of an

HB0902

- 62 -

LRB101 08006 RLC 53065 b

1 offense is granted a certificate of eligibility for sealing by
2 the Prisoner Review Board which specifically authorizes
3 sealing, he or she may, upon verified petition to the Chief
4 Judge of the circuit where the person had been convicted, any
5 judge of the circuit designated by the Chief Judge, or in
6 counties of less than 3,000,000 inhabitants, the presiding
7 trial judge at the petitioner's trial, have a court order
8 entered sealing the record of arrest from the official records
9 of the arresting authority and order that the records of the
10 circuit court clerk and the Department be sealed until further
11 order of the court upon good cause shown or as otherwise
12 provided herein, and the name of the petitioner obliterated
13 from the official index requested to be kept by the circuit
14 court clerk under Section 16 of the Clerks of Courts Act in
15 connection with the arrest and conviction for the offense for
16 which he or she had been granted the certificate but the order
17 shall not affect any index issued by the circuit court clerk
18 before the entry of the order. All records sealed by the
19 Department may be disseminated by the Department only as
20 required by this Act or to the arresting authority, a law
21 enforcement agency, the State's Attorney, and the court upon a

22 later arrest for the same or similar offense or for the purpose
23 of sentencing for any subsequent felony. Upon conviction for
24 any subsequent offense, the Department of Corrections shall
25 have access to all sealed records of the Department pertaining
26 to that individual. Upon entry of the order of sealing, the

HB0902

- 63 -

LRB101 08006 RLC 53065 b

1 circuit court clerk shall promptly mail a copy of the order to
2 the person who was granted the certificate of eligibility for
3 sealing.

4 (e-6) Whenever a person who has been convicted of an
5 offense is granted a certificate of eligibility for expungement
6 by the Prisoner Review Board which specifically authorizes
7 expungement, he or she may, upon verified petition to the Chief
8 Judge of the circuit where the person had been convicted, any
9 judge of the circuit designated by the Chief Judge, or in
10 counties of less than 3,000,000 inhabitants, the presiding
11 trial judge at the petitioner's trial, have a court order
12 entered expunging the record of arrest from the official
13 records of the arresting authority and order that the records
14 of the circuit court clerk and the Department be sealed until
15 further order of the court upon good cause shown or as
16 otherwise provided herein, and the name of the petitioner
17 obliterated from the official index requested to be kept by the
18 circuit court clerk under Section 16 of the Clerks of Courts
19 Act in connection with the arrest and conviction for the
20 offense for which he or she had been granted the certificate
21 but the order shall not affect any index issued by the circuit
22 court clerk before the entry of the order. All records sealed
23 by the Department may be disseminated by the Department only as
24 required by this Act or to the arresting authority, a law
25 enforcement agency, the State's Attorney, and the court upon a
26 later arrest for the same or similar offense or for the purpose

HB0902

- 64 -

LRB101 08006 RLC 53065 b

1 of sentencing for any subsequent felony. Upon conviction for
2 any subsequent offense, the Department of Corrections shall
3 have access to all expunged records of the Department
4 pertaining to that individual. Upon entry of the order of
5 expungement, the circuit court clerk shall promptly mail a copy
6 of the order to the person who was granted the certificate of
7 eligibility for expungement.

8 (f) Subject to available funding, the Illinois Department
9 of Corrections shall conduct a study of the impact of sealing,
10 especially on employment and recidivism rates, utilizing a
11 random sample of those who apply for the sealing of their
12 criminal records under Public Act 93-211. At the request of the
13 Illinois Department of Corrections, records of the Illinois
14 Department of Employment Security shall be utilized as
15 appropriate to assist in the study. The study shall not
16 disclose any data in a manner that would allow the
17 identification of any particular individual or employing unit.
18 The study shall be made available to the General Assembly no
19 later than September 1, 2010.

20 (g) Immediate Sealing.

21 (1) Applicability. Notwithstanding any other provision
22 of this Act to the contrary, and cumulative with any rights
23 to expungement or sealing of criminal records, this
24 subsection authorizes the immediate sealing of criminal
25 records of adults and of minors prosecuted as adults.

26 (2) Eligible Records. Arrests or charges not initiated

1 by arrest resulting in acquittal or dismissal with
2 prejudice, except as excluded by subsection (a)(3)(B),
3 that occur on or after January 1, 2018 (the effective date
4 of Public Act 100-282), may be sealed immediately if the
5 petition is filed with the circuit court clerk on the same
6 day and during the same hearing in which the case is
7 disposed.

8 (3) When Records are Eligible to be Immediately Sealed.
9 Eligible records under paragraph (2) of this subsection (g)

10 may be sealed immediately after entry of the final
11 disposition of a case, notwithstanding the disposition of
12 other charges in the same case.

13 (4) Notice of Eligibility for Immediate Sealing. Upon
14 entry of a disposition for an eligible record under this
15 subsection (g), the defendant shall be informed by the
16 court of his or her right to have eligible records
17 immediately sealed and the procedure for the immediate
18 sealing of these records.

19 (5) Procedure. The following procedures apply to
20 immediate sealing under this subsection (g).

21 (A) Filing the Petition. Upon entry of the final
22 disposition of the case, the defendant's attorney may
23 immediately petition the court, on behalf of the
24 defendant, for immediate sealing of eligible records
25 under paragraph (2) of this subsection (g) that are
26 entered on or after January 1, 2018 (the effective date

HB0902

- 66 -

LRB101 08006 RLC 53065 b

1 of Public Act 100-282). The immediate sealing petition
2 may be filed with the circuit court clerk during the
3 hearing in which the final disposition of the case is
4 entered. If the defendant's attorney does not file the
5 petition for immediate sealing during the hearing, the
6 defendant may file a petition for sealing at any time
7 as authorized under subsection (c)(3)(A).

8 (B) Contents of Petition. The immediate sealing
9 petition shall be verified and shall contain the
10 petitioner's name, date of birth, current address, and
11 for each eligible record, the case number, the date of
12 arrest if applicable, the identity of the arresting
13 authority if applicable, and other information as the
14 court may require.

15 (C) Drug Test. The petitioner shall not be required
16 to attach proof that he or she has passed a drug test.

17 (D) Service of Petition. A copy of the petition

18 shall be served on the State's Attorney in open court.
19 The petitioner shall not be required to serve a copy of
20 the petition on any other agency.

21 (E) Entry of Order. The presiding trial judge shall
22 enter an order granting or denying the petition for
23 immediate sealing during the hearing in which it is
24 filed. Petitions for immediate sealing shall be ruled
25 on in the same hearing in which the final disposition
26 of the case is entered.

HB0902

- 67 -

LRB101 08006 RLC 53065 b

1 (F) Hearings. The court shall hear the petition for
2 immediate sealing on the same day and during the same
3 hearing in which the disposition is rendered.

4 (G) Service of Order. An order to immediately seal
5 eligible records shall be served in conformance with
6 subsection (d)(8).

7 (H) Implementation of Order. An order to
8 immediately seal records shall be implemented in
9 conformance with subsections (d)(9)(C) and (d)(9)(D).

10 (I) Fees. The fee imposed by the circuit court
11 clerk and the Department of State Police shall comply
12 with paragraph (1) of subsection (d) of this Section.

13 (J) Final Order. No court order issued under this
14 subsection (g) shall become final for purposes of
15 appeal until 30 days after service of the order on the
16 petitioner and all parties entitled to service of the
17 order in conformance with subsection (d)(8).

18 (K) Motion to Vacate, Modify, or Reconsider. Under
19 Section 2-1203 of the Code of Civil Procedure, the
20 petitioner, State's Attorney, or the Department of
21 State Police may file a motion to vacate, modify, or
22 reconsider the order denying the petition to
23 immediately seal within 60 days of service of the
24 order. If filed more than 60 days after service of the
25 order, a petition to vacate, modify, or reconsider

1 the Code of Civil Procedure.

2 (L) Effect of Order. An order granting an immediate
3 sealing petition shall not be considered void because
4 it fails to comply with the provisions of this Section
5 or because of an error asserted in a motion to vacate,
6 modify, or reconsider. The circuit court retains
7 jurisdiction to determine whether the order is
8 voidable, and to vacate, modify, or reconsider its
9 terms based on a motion filed under subparagraph (L) of
10 this subsection (g).

11 (M) Compliance with Order Granting Petition to
12 Seal Records. Unless a court has entered a stay of an
13 order granting a petition to immediately seal, all
14 parties entitled to service of the order must fully
15 comply with the terms of the order within 60 days of
16 service of the order.

17 (h) Sealing; trafficking victims.

18 (1) A trafficking victim as defined by paragraph (10)
19 of subsection (a) of Section 10-9 of the Criminal Code of
20 2012 shall be eligible to petition for immediate sealing of
21 his or her criminal record upon the completion of his or
22 her last sentence if his or her participation in the
23 underlying offense was a direct result of human trafficking
24 under Section 10-9 of the Criminal Code of 2012 or a severe
25 form of trafficking under the federal Trafficking Victims
26 Protection Act.

1 (2) A petitioner under this subsection (h), in addition
2 to the requirements provided under paragraph (4) of
3 subsection (d) of this Section, shall include in his or her

4 petition a clear and concise statement that: (A) he or she
5 was a victim of human trafficking at the time of the
6 offense; and (B) that his or her participation in the
7 offense was a direct result of human trafficking under
8 Section 10-9 of the Criminal Code of 2012 or a severe form
9 of trafficking under the federal Trafficking Victims
10 Protection Act.

11 (3) If an objection is filed alleging that the
12 petitioner is not entitled to immediate sealing under this
13 subsection (h), the court shall conduct a hearing under
14 paragraph (7) of subsection (d) of this Section and the
15 court shall determine whether the petitioner is entitled to
16 immediate sealing under this subsection (h). A petitioner
17 is eligible for immediate relief under this subsection (h)
18 if he or she shows, by a preponderance of the evidence,
19 that: (A) he or she was a victim of human trafficking at
20 the time of the offense; and (B) that his or her
21 participation in the offense was a direct result of human
22 trafficking under Section 10-9 of the Criminal Code of 2012
23 or a severe form of trafficking under the federal
24 Trafficking Victims Protection Act.

25 (Source: P.A. 99-78, eff. 7-20-15; 99-378, eff. 1-1-16; 99-385,
26 eff. 1-1-16; 99-642, eff. 7-28-16; 99-697, eff. 7-29-16;

HB0902

- 70 -

LRB101 08006 RLC 53065 b

1 99-881, eff. 1-1-17; 100-201, eff. 8-18-17; 100-282, eff.
2 1-1-18; 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; 100-692,
3 eff. 8-3-18; 100-759, eff. 1-1-19; 100-776, eff. 8-10-18;
4 100-863, eff. 8-14-18; revised 8-30-18.)

5 Section 910. The State Finance Act is amended by adding
6 Sections 5.891 and 5.892 as follows:

7 (30 ILCS 105/5.891 new)

8 Sec. 5.891. The Cannabis Excise Tax Fund.

9 (30 ILCS 105/5.892 new)

10 Sec. 5.892. The Cannabis Regulation Fund.

11 Section 915. The Illinois Income Tax Act is amended by
12 changing Section 203 as follows:

13 (35 ILCS 5/203) (from Ch. 120, par. 2-203)
14 Sec. 203. Base income defined.

15 (a) Individuals.

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

20 (2) Modifications. The adjusted gross income referred
21 to in paragraph (1) shall be modified by adding thereto the

HB0902

- 71 -

LRB101 08006 RLC 53065 b

1 sum of the following amounts:

2 (A) An amount equal to all amounts paid or accrued
3 to the taxpayer as interest or dividends during the
4 taxable year to the extent excluded from gross income
5 in the computation of adjusted gross income, except
6 stock dividends of qualified public utilities
7 described in Section 305(e) of the Internal Revenue
8 Code;

9 (B) An amount equal to the amount of tax imposed by
10 this Act to the extent deducted from gross income in
11 the computation of adjusted gross income for the
12 taxable year;

13 (C) An amount equal to the amount received during
14 the taxable year as a recovery or refund of real
15 property taxes paid with respect to the taxpayer's
16 principal residence under the Revenue Act of 1939 and
17 for which a deduction was previously taken under
18 subparagraph (L) of this paragraph (2) prior to July 1,
19 1991, the retrospective application date of Article 4
20 of Public Act 87-17. In the case of multi-unit or
21 multi-use structures and farm dwellings, the taxes on
22 the taxpayer's principal residence shall be that

23 portion of the total taxes for the entire property
24 which is attributable to such principal residence;

25 (D) An amount equal to the amount of the capital
26 gain deduction allowable under the Internal Revenue

HB0902

- 72 -

LRB101 08006 RLC 53065 b

1 Code, to the extent deducted from gross income in the
2 computation of adjusted gross income;

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

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

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

21 (D-16) If the taxpayer sells, transfers, abandons,
22 or otherwise disposes of property for which the
23 taxpayer was required in any taxable year to make an
24 addition modification under subparagraph (D-15), then
25 an amount equal to the aggregate amount of the
26 deductions taken in all taxable years under

HB0902

- 73 -

LRB101 08006 RLC 53065 b

1 subparagraph (Z) with respect to that property.

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

9 The taxpayer is required to make the addition
10 modification under this subparagraph only once with
11 respect to any one piece of property;

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

1 subsections of Section 304. The addition modification
2 required by this subparagraph shall be reduced to the
3 extent that dividends were included in base income of
4 the unitary group for the same taxable year and
5 received by the taxpayer or by a member of the
6 taxpayer's unitary business group (including amounts
7 included in gross income under Sections 951 through 964
8 of the Internal Revenue Code and amounts included in

9 gross income under Section 78 of the Internal Revenue
10 Code) with respect to the stock of the same person to
11 whom the interest was paid, accrued, or incurred.

12 This paragraph shall not apply to the following:

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

19 (ii) an item of interest paid, accrued, or
20 incurred, directly or indirectly, to a person if
21 the taxpayer can establish, based on a
22 preponderance of the evidence, both of the
23 following:

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

HB0902

- 75 -

LRB101 08006 RLC 53065 b

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

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

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

17 evidence that the adjustments are unreasonable; or
18 if the taxpayer and the Director agree in writing
19 to the application or use of an alternative method
20 of apportionment under Section 304(f).

21 Nothing in this subsection shall preclude the
22 Director from making any other adjustment
23 otherwise allowed under Section 404 of this Act for
24 any tax year beginning after the effective date of
25 this amendment provided such adjustment is made
26 pursuant to regulation adopted by the Department

HB0902

- 76 -

LRB101 08006 RLC 53065 b

1 and such regulations provide methods and standards
2 by which the Department will utilize its authority
3 under Section 404 of this Act;

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

25 business group (including amounts included in gross
26 income under Sections 951 through 964 of the Internal

HB0902

- 77 -

LRB101 08006 RLC 53065 b

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

23 This paragraph shall not apply to the following:

24 (i) any item of intangible expenses or costs
25 paid, accrued, or incurred, directly or
26 indirectly, from a transaction with a person who is

HB0902

- 78 -

LRB101 08006 RLC 53065 b

1 subject in a foreign country or state, other than a
2 state which requires mandatory unitary reporting,

3 to a tax on or measured by net income with respect
4 to such item; or

5 (ii) any item of intangible expense or cost
6 paid, accrued, or incurred, directly or
7 indirectly, if the taxpayer can establish, based
8 on a preponderance of the evidence, both of the
9 following:

10 (a) the person during the same taxable
11 year paid, accrued, or incurred, the
12 intangible expense or cost to a person that is
13 not a related member, and

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

21 (iii) any item of intangible expense or cost
22 paid, accrued, or incurred, directly or
23 indirectly, from a transaction with a person if the
24 taxpayer establishes by clear and convincing
25 evidence, that the adjustments are unreasonable;
26 or if the taxpayer and the Director agree in

1 writing to the application or use of an alternative
2 method of apportionment under Section 304(f);

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

11 under Section 404 of this Act;

12 (D-19) For taxable years ending on or after
13 December 31, 2008, an amount equal to the amount of
14 insurance premium expenses and costs otherwise allowed
15 as a deduction in computing base income, and that were
16 paid, accrued, or incurred, directly or indirectly, to
17 a person who would be a member of the same unitary
18 business group but for the fact that the person is
19 prohibited under Section 1501(a)(27) from being
20 included in the unitary business group because he or
21 she is ordinarily required to apportion business
22 income under different subsections of Section 304. The
23 addition modification required by this subparagraph
24 shall be reduced to the extent that dividends were
25 included in base income of the unitary group for the
26 same taxable year and received by the taxpayer or by a

HB0902

- 80 -

LRB101 08006 RLC 53065 b

1 member of the taxpayer's unitary business group
2 (including amounts included in gross income under
3 Sections 951 through 964 of the Internal Revenue Code
4 and amounts included in gross income under Section 78
5 of the Internal Revenue Code) with respect to the stock
6 of the same person to whom the premiums and costs were
7 directly or indirectly paid, incurred, or accrued. The
8 preceding sentence does not apply to the extent that
9 the same dividends caused a reduction to the addition
10 modification required under Section 203(a)(2)(D-17) or
11 Section 203(a)(2)(D-18) of this Act.

12 (D-20) For taxable years beginning on or after
13 January 1, 2002 and ending on or before December 31,
14 2006, in the case of a distribution from a qualified
15 tuition program under Section 529 of the Internal
16 Revenue Code, other than (i) a distribution from a
17 College Savings Pool created under Section 16.5 of the
18 State Treasurer Act or (ii) a distribution from the

19 Illinois Prepaid Tuition Trust Fund, an amount equal to
20 the amount excluded from gross income under Section
21 529(c)(3)(B). For taxable years beginning on or after
22 January 1, 2007, in the case of a distribution from a
23 qualified tuition program under Section 529 of the
24 Internal Revenue Code, other than (i) a distribution
25 from a College Savings Pool created under Section 16.5
26 of the State Treasurer Act, (ii) a distribution from

HB0902

- 81 -

LRB101 08006 RLC 53065 b

1 the Illinois Prepaid Tuition Trust Fund, or (iii) a
2 distribution from a qualified tuition program under
3 Section 529 of the Internal Revenue Code that (I)
4 adopts and determines that its offering materials
5 comply with the College Savings Plans Network's
6 disclosure principles and (II) has made reasonable
7 efforts to inform in-state residents of the existence
8 of in-state qualified tuition programs by informing
9 Illinois residents directly and, where applicable, to
10 inform financial intermediaries distributing the
11 program to inform in-state residents of the existence
12 of in-state qualified tuition programs at least
13 annually, an amount equal to the amount excluded from
14 gross income under Section 529(c)(3)(B).

15 For the purposes of this subparagraph (D-20), a
16 qualified tuition program has made reasonable efforts
17 if it makes disclosures (which may use the term
18 "in-state program" or "in-state plan" and need not
19 specifically refer to Illinois or its qualified
20 programs by name) (i) directly to prospective
21 participants in its offering materials or makes a
22 public disclosure, such as a website posting; and (ii)
23 where applicable, to intermediaries selling the
24 out-of-state program in the same manner that the
25 out-of-state program distributes its offering
26 materials;

1 (D-20.5) For taxable years beginning on or after
2 January 1, 2018, in the case of a distribution from a
3 qualified ABLE program under Section 529A of the
4 Internal Revenue Code, other than a distribution from a
5 qualified ABLE program created under Section 16.6 of
6 the State Treasurer Act, an amount equal to the amount
7 excluded from gross income under Section 529A(c)(1)(B)
8 of the Internal Revenue Code;

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

16 (D-21.5) For taxable years beginning on or after
17 January 1, 2018, in the case of the transfer of moneys
18 from a qualified tuition program under Section 529 or a
19 qualified ABLE program under Section 529A of the
20 Internal Revenue Code that is administered by this
21 State to an ABLE account established under an
22 out-of-state ABLE account program, an amount equal to
23 the contribution component of the transferred amount
24 that was previously deducted from base income under
25 subsection (a)(2)(Y) or subsection (a)(2)(HH) of this
26 Section;

1 (D-22) For taxable years beginning on or after
2 January 1, 2009, and prior to January 1, 2018, in the
3 case of a nonqualified withdrawal or refund of moneys
4 from a qualified tuition program under Section 529 of

5 the Internal Revenue Code administered by the State
6 that is not used for qualified expenses at an eligible
7 education institution, an amount equal to the
8 contribution component of the nonqualified withdrawal
9 or refund that was previously deducted from base income
10 under subsection (a)(2)(y) of this Section, provided
11 that the withdrawal or refund did not result from the
12 beneficiary's death or disability. For taxable years
13 beginning on or after January 1, 2018: (1) in the case
14 of a nonqualified withdrawal or refund, as defined
15 under Section 16.5 of the State Treasurer Act, of
16 moneys from a qualified tuition program under Section
17 529 of the Internal Revenue Code administered by the
18 State, an amount equal to the contribution component of
19 the nonqualified withdrawal or refund that was
20 previously deducted from base income under subsection
21 (a)(2)(Y) of this Section, and (2) in the case of a
22 nonqualified withdrawal or refund from a qualified
23 ABLE program under Section 529A of the Internal Revenue
24 Code administered by the State that is not used for
25 qualified disability expenses, an amount equal to the
26 contribution component of the nonqualified withdrawal

HB0902

- 84 -

LRB101 08006 RLC 53065 b

1 or refund that was previously deducted from base income
2 under subsection (a)(2)(HH) of this Section;

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

7 (D-24) For taxable years ending on or after
8 December 31, 2017, an amount equal to the deduction
9 allowed under Section 199 of the Internal Revenue Code
10 for the taxable year;

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

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

HB0902

- 85 -

LRB101 08006 RLC 53065 b

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

18 (F) An amount equal to all amounts included in such
19 total pursuant to the provisions of Sections 402(a),
20 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the

21 Internal Revenue Code, or included in such total as
22 distributions under the provisions of any retirement
23 or disability plan for employees of any governmental
24 agency or unit, or retirement payments to retired
25 partners, which payments are excluded in computing net
26 earnings from self employment by Section 1402 of the

HB0902

- 86 -

LRB101 08006 RLC 53065 b

1 Internal Revenue Code and regulations adopted pursuant
2 thereto;

3 (G) The valuation limitation amount;

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

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

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

20 (K) An amount equal to those dividends included in
21 such total that were paid by a corporation that
22 conducts business operations in a federally designated
23 Foreign Trade Zone or Sub-Zone and that is designated a
24 High Impact Business located in Illinois; provided
25 that dividends eligible for the deduction provided in
26 subparagraph (J) of paragraph (2) of this subsection

1 shall not be eligible for the deduction provided under
2 this subparagraph (K);

3 (L) For taxable years ending after December 31,
4 1983, an amount equal to all social security benefits
5 and railroad retirement benefits included in such
6 total pursuant to Sections 72(r) and 86 of the Internal
7 Revenue Code;

8 (M) With the exception of any amounts subtracted
9 under subparagraph (N), an amount equal to the sum of
10 all amounts disallowed as deductions by (i) Sections
11 171(a)(2), and 265(a)(2) ~~265(2)~~ of the Internal
12 Revenue Code, and all amounts of expenses allocable to
13 interest and disallowed as deductions by Section
14 265(a)(1) ~~265(1)~~ of the Internal Revenue Code; and (ii)
15 for taxable years ending on or after August 13, 1999,
16 Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of
17 the Internal Revenue Code, plus, for taxable years
18 ending on or after December 31, 2011, Section 45G(e)(3)
19 of the Internal Revenue Code and, for taxable years
20 ending on or after December 31, 2008, any amount
21 included in gross income under Section 87 of the
22 Internal Revenue Code; the provisions of this
23 subparagraph are exempt from the provisions of Section
24 250;

25 (N) An amount equal to all amounts included in such
26 total which are exempt from taxation by this State

1 either by reason of its statutes or Constitution or by
2 reason of the Constitution, treaties or statutes of the
3 United States; provided that, in the case of any
4 statute of this State that exempts income derived from
5 bonds or other obligations from the tax imposed under
6 this Act, the amount exempted shall be the interest net

7 of bond premium amortization;

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

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

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

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

26 (S) An amount, to the extent included in adjusted

1 gross income, equal to the amount of a contribution
2 made in the taxable year on behalf of the taxpayer to a
3 medical care savings account established under the
4 Medical Care Savings Account Act or the Medical Care
5 Savings Account Act of 2000 to the extent the
6 contribution is accepted by the account administrator
7 as provided in that Act;

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

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

21 (V) Beginning with tax years ending on or after
22 December 31, 1995 and ending with tax years ending on
23 or before December 31, 2004, an amount equal to the
24 amount paid by a taxpayer who is a self-employed
25 taxpayer, a partner of a partnership, or a shareholder
26 in a Subchapter S corporation for health insurance or

HB0902

- 90 -

LRB101 08006 RLC 53065 b

1 long-term care insurance for that taxpayer or that
2 taxpayer's spouse or dependents, to the extent that the
3 amount paid for that health insurance or long-term care
4 insurance may be deducted under Section 213 of the
5 Internal Revenue Code, has not been deducted on the
6 federal income tax return of the taxpayer, and does not
7 exceed the taxable income attributable to that
8 taxpayer's income, self-employment income, or
9 Subchapter S corporation income; except that no
10 deduction shall be allowed under this item (V) if the
11 taxpayer is eligible to participate in any health
12 insurance or long-term care insurance plan of an
13 employer of the taxpayer or the taxpayer's spouse. The
14 amount of the health insurance and long-term care
15 insurance subtracted under this item (V) shall be
16 determined by multiplying total health insurance and
17 long-term care insurance premiums paid by the taxpayer
18 times a number that represents the fractional
19 percentage of eligible medical expenses under Section
20 213 of the Internal Revenue Code of 1986 not actually
21 deducted on the taxpayer's federal income tax return;

22 (W) For taxable years beginning on or after January

23 1, 1998, all amounts included in the taxpayer's federal
24 gross income in the taxable year from amounts converted
25 from a regular IRA to a Roth IRA. This paragraph is
26 exempt from the provisions of Section 250;

HB0902

- 91 -

LRB101 08006 RLC 53065 b

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

HB0902

- 92 -

LRB101 08006 RLC 53065 b

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

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

1 made by the employee. This subparagraph (Y) is exempt
2 from the provisions of Section 250;

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

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

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

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

22 (i) for property on which a bonus
23 depreciation deduction of 30% of the adjusted
24 basis was taken, "x" equals "y" multiplied by
25 30 and then divided by 70 (or "y" multiplied by
26 0.429); and

HB0902

- 94 -

LRB101 08006 RLC 53065 b

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

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

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

17 an amount equal to that addition modification.

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

25 The taxpayer is allowed to take the deduction under
26 this subparagraph only once with respect to any one

HB0902

- 95 -

LRB101 08006 RLC 53065 b

1 piece of property.

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

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

7 (CC) The amount of (i) any interest income (net of
8 the deductions allocable thereto) taken into account
9 for the taxable year with respect to a transaction with
10 a taxpayer that is required to make an addition
11 modification with respect to such transaction under
12 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
13 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
14 the amount of that addition modification, and (ii) any
15 income from intangible property (net of the deductions
16 allocable thereto) taken into account for the taxable
17 year with respect to a transaction with a taxpayer that
18 is required to make an addition modification with
19 respect to such transaction under Section
20 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
21 203(d)(2)(D-8), but not to exceed the amount of that
22 addition modification. This subparagraph (CC) is
23 exempt from the provisions of Section 250;

24 (DD) An amount equal to the interest income taken

25 into account for the taxable year (net of the
26 deductions allocable thereto) with respect to

HB0902

- 96 -

LRB101 08006 RLC 53065 b

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

18 (EE) An amount equal to the income from intangible
19 property taken into account for the taxable year (net
20 of the deductions allocable thereto) with respect to
21 transactions with (i) a foreign person who would be a
22 member of the taxpayer's unitary business group but for
23 the fact that the foreign person's business activity
24 outside the United States is 80% or more of that
25 person's total business activity and (ii) for taxable
26 years ending on or after December 31, 2008, to a person

HB0902

- 97 -

LRB101 08006 RLC 53065 b

1 who would be a member of the same unitary business
2 group but for the fact that the person is prohibited

3 under Section 1501(a)(27) from being included in the
4 unitary business group because he or she is ordinarily
5 required to apportion business income under different
6 subsections of Section 304, but not to exceed the
7 addition modification required to be made for the same
8 taxable year under Section 203(a)(2)(D-18) for
9 intangible expenses and costs paid, accrued, or
10 incurred, directly or indirectly, to the same foreign
11 person. This subparagraph (EE) is exempt from the
12 provisions of Section 250;

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

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

HB0902

- 98 -

LRB101 08006 RLC 53065 b

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

8 (HH) For taxable years beginning on or after
9 January 1, 2018 and prior to January 1, 2023, a maximum
10 of \$10,000 contributed in the taxable year to a

11 qualified ABLE account under Section 16.6 of the State
12 Treasurer Act, except that amounts excluded from gross
13 income under Section 529(c)(3)(C)(i) or Section
14 529A(c)(1)(C) of the Internal Revenue Code shall not be
15 considered moneys contributed under this subparagraph
16 (HH). For purposes of this subparagraph (HH),
17 contributions made by an employer on behalf of an
18 employee, or matching contributions made by an
19 employee, shall be treated as made by the employee;
20 and -

21 (II) An amount equal to all the ordinary and
22 necessary expenses paid or incurred during the taxable
23 year in carrying on the business of a cannabis
24 establishment as defined in Section 10 of the Cannabis
25 Legalization Equity Act if the cannabis establishment
26 is in compliance with that Act, including:

HB0902

- 99 -

LRB101 08006 RLC 53065 b

1 (i) a reasonable allowance for salaries or
2 other compensation for personal services actually
3 rendered;

4 (ii) traveling expenses (including amounts
5 expended for meals and lodging other than amounts
6 which are lavish or extravagant under the
7 circumstances) while away from home in the pursuit
8 of the business of the cannabis establishment; and

9 (iii) rentals or other payments required to be
10 made as a condition to the continued use or
11 possession, for purposes of the business of a
12 cannabis establishment, of property to which the
13 taxpayer has not taken or is not taking title or in
14 which he or she has no equity.

15 (b) Corporations.

16 (1) In general. In the case of a corporation, 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 in
20 paragraph (1) shall be modified by adding thereto the sum
21 of the following amounts:

22 (A) An amount equal to all amounts paid or accrued
23 to the taxpayer as interest and all distributions
24 received from regulated investment companies during
25 the taxable year to the extent excluded from gross

HB0902

- 100 -

LRB101 08006 RLC 53065 b

1 income in the computation of taxable income;

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

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

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

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

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

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

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

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

23 (E-5) For taxable years ending after December 31,
24 1997, an amount equal to any eligible remediation costs
25 that the corporation deducted in computing adjusted
26 gross income and for which the corporation claims a

1 credit under subsection (l) of Section 201;

2 (E-10) For taxable years 2001 and thereafter, an
3 amount equal to the bonus depreciation deduction taken
4 on the taxpayer's federal income tax return for the
5 taxable year under subsection (k) of Section 168 of the

6 Internal Revenue Code;

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

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

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

24 (E-12) An amount equal to the amount otherwise
25 allowed as a deduction in computing base income for
26 interest paid, accrued, or incurred, directly or

HB0902

- 103 -

LRB101 08006 RLC 53065 b

1 indirectly, (i) for taxable years ending on or after
2 December 31, 2004, to a foreign person who would be a
3 member of the same unitary business group but for the
4 fact the foreign person's business activity outside
5 the United States is 80% or more of the foreign
6 person's total business activity and (ii) for taxable
7 years ending on or after December 31, 2008, to a person
8 who would be a member of the same unitary business
9 group but for the fact that the person is prohibited
10 under Section 1501(a)(27) from being included in the
11 unitary business group because he or she is ordinarily
12 required to apportion business income under different
13 subsections of Section 304. The addition modification

14 required by this subparagraph shall be reduced to the
15 extent that dividends were included in base income of
16 the unitary group for the same taxable year and
17 received by the taxpayer or by a member of the
18 taxpayer's unitary business group (including amounts
19 included in gross income pursuant to Sections 951
20 through 964 of the Internal Revenue Code and amounts
21 included in gross income under Section 78 of the
22 Internal Revenue Code) with respect to the stock of the
23 same person to whom the interest was paid, accrued, or
24 incurred.

25 This paragraph shall not apply to the following:

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

HB0902

- 104 -

LRB101 08006 RLC 53065 b

1 incurred, directly or indirectly, to a person who
2 is subject in a foreign country or state, other
3 than a state which requires mandatory unitary
4 reporting, to a tax on or measured by net income
5 with respect to such interest; or

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

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

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

21 (iii) the taxpayer can establish, based on

22 clear and convincing evidence, that the interest
23 paid, accrued, or incurred relates to a contract or
24 agreement entered into at arm's-length rates and
25 terms and the principal purpose for the payment is
26 not federal or Illinois tax avoidance; or

HB0902

- 105 -

LRB101 08006 RLC 53065 b

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

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

17 (E-13) An amount equal to the amount of intangible
18 expenses and costs otherwise allowed as a deduction in
19 computing base income, and that were paid, accrued, or
20 incurred, directly or indirectly, (i) for taxable
21 years ending on or after December 31, 2004, to a
22 foreign person who would be a member of the same
23 unitary business group but for the fact that the
24 foreign person's business activity outside the United
25 States is 80% or more of that person's total business
26 activity and (ii) for taxable years ending on or after

HB0902

- 106 -

LRB101 08006 RLC 53065 b

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

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

8 marks, copyrights, mask works, trade secrets, and
9 similar types of intangible assets.

10 This paragraph shall not apply to the following:

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

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

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

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

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

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

25 (E-14) For taxable years ending on or after
26 December 31, 2008, an amount equal to the amount of

HB0902

- 109 -

LRB101 08006 RLC 53065 b

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

24 Section 203(b)(2)(E-13) of this Act;

25 (E-15) For taxable years beginning after December
26 31, 2008, any deduction for dividends paid by a captive

HB0902

- 110 -

LRB101 08006 RLC 53065 b

1 real estate investment trust that is allowed to a real
2 estate investment trust under Section 857(b)(2)(B) of
3 the Internal Revenue Code for dividends paid;

4 (E-16) An amount equal to the credit allowable to
5 the taxpayer under Section 218(a) of this Act,
6 determined without regard to Section 218(c) of this
7 Act;

8 (E-17) For taxable years ending on or after
9 December 31, 2017, an amount equal to the deduction
10 allowed under Section 199 of the Internal Revenue Code
11 for the taxable year;

12 and by deducting from the total so obtained the sum of the
13 following amounts:

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

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

19 (H) In the case of a regulated investment company,
20 an amount equal to the amount of exempt interest
21 dividends as defined in subsection (b)(5) of Section
22 852 of the Internal Revenue Code, paid to shareholders
23 for the taxable year;

24 (I) With the exception of any amounts subtracted
25 under subparagraph (J), an amount equal to the sum of
26 all amounts disallowed as deductions by (i) Sections

HB0902

- 111 -

LRB101 08006 RLC 53065 b

1 171(a)(2), and 265(a)(2) and amounts disallowed as

2 interest expense by Section 291(a)(3) of the Internal
3 Revenue Code, and all amounts of expenses allocable to
4 interest and disallowed as deductions by Section
5 265(a)(1) of the Internal Revenue Code; and (ii) for
6 taxable years ending on or after August 13, 1999,
7 Sections 171(a)(2), 265, 280C, 291(a)(3), and
8 832(b)(5)(B)(i) of the Internal Revenue Code, plus,
9 for tax years ending on or after December 31, 2011,
10 amounts disallowed as deductions by Section 45G(e)(3)
11 of the Internal Revenue Code and, for taxable years
12 ending on or after December 31, 2008, any amount
13 included in gross income under Section 87 of the
14 Internal Revenue Code and the policyholders' share of
15 tax-exempt interest of a life insurance company under
16 Section 807(a)(2)(B) of the Internal Revenue Code (in
17 the case of a life insurance company with gross income
18 from a decrease in reserves for the tax year) or
19 Section 807(b)(1)(B) of the Internal Revenue Code (in
20 the case of a life insurance company allowed a
21 deduction for an increase in reserves for the tax
22 year); the provisions of this subparagraph are exempt
23 from the provisions of Section 250;

24 (J) An amount equal to all amounts included in such
25 total which are exempt from taxation by this State
26 either by reason of its statutes or Constitution or by

HB0902

- 112 -

LRB101 08006 RLC 53065 b

1 reason of the Constitution, treaties or statutes of the
2 United States; provided that, in the case of any
3 statute of this State that exempts income derived from
4 bonds or other obligations from the tax imposed under
5 this Act, the amount exempted shall be the interest net
6 of bond premium amortization;

7 (K) An amount equal to those dividends included in
8 such total which were paid by a corporation which
9 conducts business operations in a River Edge

10 Redevelopment Zone or zones created under the River
11 Edge Redevelopment Zone Act and conducts substantially
12 all of its operations in a River Edge Redevelopment
13 Zone or zones. This subparagraph (K) is exempt from the
14 provisions of Section 250;

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

24 (M) For any taxpayer that is a financial
25 organization within the meaning of Section 304(c) of
26 this Act, an amount included in such total as interest

HB0902

- 113 -

LRB101 08006 RLC 53065 b

1 income from a loan or loans made by such taxpayer to a
2 borrower, to the extent that such a loan is secured by
3 property which is eligible for the River Edge
4 Redevelopment Zone Investment Credit. To determine the
5 portion of a loan or loans that is secured by property
6 eligible for a Section 201(f) investment credit to the
7 borrower, the entire principal amount of the loan or
8 loans between the taxpayer and the borrower should be
9 divided into the basis of the Section 201(f) investment
10 credit property which secures the loan or loans, using
11 for this purpose the original basis of such property on
12 the date that it was placed in service in the River
13 Edge Redevelopment Zone. The subtraction modification
14 available to the taxpayer in any year under this
15 subsection shall be that portion of the total interest
16 paid by the borrower with respect to such loan
17 attributable to the eligible property as calculated

18 under the previous sentence. This subparagraph (M) is
19 exempt from the provisions of Section 250;

20 (M-1) For any taxpayer that is a financial
21 organization within the meaning of Section 304(c) of
22 this Act, an amount included in such total as interest
23 income from a loan or loans made by such taxpayer to a
24 borrower, to the extent that such a loan is secured by
25 property which is eligible for the High Impact Business
26 Investment Credit. To determine the portion of a loan

HB0902

- 114 -

LRB101 08006 RLC 53065 b

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

19 (N) Two times any contribution made during the
20 taxable year to a designated zone organization to the
21 extent that the contribution (i) qualifies as a
22 charitable contribution under subsection (c) of
23 Section 170 of the Internal Revenue Code and (ii) must,
24 by its terms, be used for a project approved by the
25 Department of Commerce and Economic Opportunity under

HB0902

- 115 -

LRB101 08006 RLC 53065 b

1 Section 10-10 of the River Edge Redevelopment Zone Act.
2 This subparagraph (N) is exempt from the provisions of
3 Section 250;

4 (O) An amount equal to: (i) 85% for taxable years
5 ending on or before December 31, 1992, or, a percentage
6 equal to the percentage allowable under Section
7 243(a)(1) of the Internal Revenue Code of 1986 for
8 taxable years ending after December 31, 1992, of the
9 amount by which dividends included in taxable income
10 and received from a corporation that is not created or
11 organized under the laws of the United States or any
12 state or political subdivision thereof, including, for
13 taxable years ending on or after December 31, 1988,
14 dividends received or deemed received or paid or deemed
15 paid under Sections 951 through 965 of the Internal
16 Revenue Code, exceed the amount of the modification
17 provided under subparagraph (G) of paragraph (2) of
18 this subsection (b) which is related to such dividends,
19 and including, for taxable years ending on or after
20 December 31, 2008, dividends received from a captive
21 real estate investment trust; plus (ii) 100% of the
22 amount by which dividends, included in taxable income
23 and received, including, for taxable years ending on or
24 after December 31, 1988, dividends received or deemed
25 received or paid or deemed paid under Sections 951
26 through 964 of the Internal Revenue Code and including,

HB0902

- 116 -

LRB101 08006 RLC 53065 b

1 for taxable years ending on or after December 31, 2008,
2 dividends received from a captive real estate
3 investment trust, from any such corporation specified

4 in clause (i) that would but for the provisions of
5 Section 1504(b)(3) of the Internal Revenue Code be
6 treated as a member of the affiliated group which
7 includes the dividend recipient, exceed the amount of
8 the modification provided under subparagraph (G) of
9 paragraph (2) of this subsection (b) which is related
10 to such dividends. This subparagraph (O) is exempt from
11 the provisions of Section 250 of this Act;

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

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

20 (R) On and after July 20, 1999, in the case of an
21 attorney-in-fact with respect to whom an interinsurer
22 or a reciprocal insurer has made the election under
23 Section 835 of the Internal Revenue Code, 26 U.S.C.
24 835, an amount equal to the excess, if any, of the
25 amounts paid or incurred by that interinsurer or
26 reciprocal insurer in the taxable year to the

1 attorney-in-fact over the deduction allowed to that
2 interinsurer or reciprocal insurer with respect to the
3 attorney-in-fact under Section 835(b) of the Internal
4 Revenue Code for the taxable year; the provisions of
5 this subparagraph are exempt from the provisions of
6 Section 250;

7 (S) For taxable years ending on or after December
8 31, 1997, in the case of a Subchapter S corporation, an
9 amount equal to all amounts of income allocable to a
10 shareholder subject to the Personal Property Tax
11 Replacement Income Tax imposed by subsections (c) and

12 (d) of Section 201 of this Act, including amounts
13 allocable to organizations exempt from federal income
14 tax by reason of Section 501(a) of the Internal Revenue
15 Code. This subparagraph (S) is exempt from the
16 provisions of Section 250;

17 (T) For taxable years 2001 and thereafter, for the
18 taxable year in which the bonus depreciation deduction
19 is taken on the taxpayer's federal income tax return
20 under subsection (k) of Section 168 of the Internal
21 Revenue Code and for each applicable taxable year
22 thereafter, an amount equal to "x", where:

23 (1) "y" equals the amount of the depreciation
24 deduction taken for the taxable year on the
25 taxpayer's federal income tax return on property
26 for which the bonus depreciation deduction was

HB0902

- 118 -

LRB101 08006 RLC 53065 b

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

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

8 (3) for taxable years ending after December
9 31, 2005:

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

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

19 The aggregate amount deducted under this

20 subparagraph in all taxable years for any one piece of
21 property may not exceed the amount of the bonus
22 depreciation deduction taken on that property on the
23 taxpayer's federal income tax return under subsection
24 (k) of Section 168 of the Internal Revenue Code. This
25 subparagraph (T) is exempt from the provisions of
26 Section 250;

HB0902

- 119 -

LRB101 08006 RLC 53065 b

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

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

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

16 This subparagraph (U) is exempt from the
17 provisions of Section 250;

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

1 allocable thereto) taken into account for the taxable
2 year with respect to a transaction with a taxpayer that
3 is required to make an addition modification with
4 respect to such transaction under Section
5 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
6 203(d)(2)(D-8), but not to exceed the amount of such
7 addition modification, and (iii) any insurance premium
8 income (net of deductions allocable thereto) taken
9 into account for the taxable year with respect to a
10 transaction with a taxpayer that is required to make an
11 addition modification with respect to such transaction
12 under Section 203(a)(2)(D-19), Section
13 203(b)(2)(E-14), Section 203(c)(2)(G-14), or Section
14 203(d)(2)(D-9), but not to exceed the amount of that
15 addition modification. This subparagraph (V) is exempt
16 from the provisions of Section 250;

17 (W) An amount equal to the interest income taken
18 into account for the taxable year (net of the
19 deductions allocable thereto) with respect to
20 transactions with (i) a foreign person who would be a
21 member of the taxpayer's unitary business group but for
22 the fact that the foreign person's business activity
23 outside the United States is 80% or more of that
24 person's total business activity and (ii) for taxable
25 years ending on or after December 31, 2008, to a person
26 who would be a member of the same unitary business

1 group but for the fact that the person is prohibited
2 under Section 1501(a)(27) from being included in the
3 unitary business group because he or she is ordinarily
4 required to apportion business income under different
5 subsections of Section 304, but not to exceed the

6 addition modification required to be made for the same
7 taxable year under Section 203(b)(2)(E-12) for
8 interest paid, accrued, or incurred, directly or
9 indirectly, to the same person. This subparagraph (W)
10 is exempt from the provisions of Section 250;

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

HB0902

- 122 -

LRB101 08006 RLC 53065 b

1 taxable year under Section 203(b)(2)(E-13) for
2 intangible expenses and costs paid, accrued, or
3 incurred, directly or indirectly, to the same foreign
4 person. This subparagraph (X) is exempt from the
5 provisions of Section 250;

6 (Y) For taxable years ending on or after December
7 31, 2011, in the case of a taxpayer who was required to
8 add back any insurance premiums under Section
9 203(b)(2)(E-14), such taxpayer may elect to subtract
10 that part of a reimbursement received from the
11 insurance company equal to the amount of the expense or
12 loss (including expenses incurred by the insurance
13 company) that would have been taken into account as a

14 deduction for federal income tax purposes if the
15 expense or loss had been uninsured. If a taxpayer makes
16 the election provided for by this subparagraph (Y), the
17 insurer to which the premiums were paid must add back
18 to income the amount subtracted by the taxpayer
19 pursuant to this subparagraph (Y). This subparagraph
20 (Y) is exempt from the provisions of Section 250; ~~and~~
21 (Z) The difference between the nondeductible
22 controlled foreign corporation dividends under Section
23 965(e)(3) of the Internal Revenue Code over the taxable
24 income of the taxpayer, computed without regard to
25 Section 965(e)(2)(A) of the Internal Revenue Code, and
26 without regard to any net operating loss deduction.

HB0902

- 123 -

LRB101 08006 RLC 53065 b

1 This subparagraph (Z) is exempt from the provisions of
2 Section 250; ~~and~~ -

3 (AA) An amount equal to all the ordinary and
4 necessary expenses paid or incurred during the taxable
5 year in carrying on the business of a cannabis
6 establishment as defined in Section 10 of the Cannabis
7 Legalization Equity Act if the cannabis establishment
8 is in compliance with that Act, including:

9 (i) a reasonable allowance for salaries or
10 other compensation for personal services actually
11 rendered;

12 (ii) traveling expenses (including amounts
13 expended for meals and lodging other than amounts
14 which are lavish or extravagant under the
15 circumstances) while away from home in the pursuit
16 of the business of the cannabis establishment; and

17 (iii) rentals or other payments required to be
18 made as a condition to the continued use or
19 possession, for purposes of the business of a
20 cannabis establishment, of property to which the
21 taxpayer has not taken or is not taking title or in

which he or she has no equity.

(3) Special rule. For purposes of paragraph (2)(A), "gross income" in the case of a life insurance company, for tax years ending on and after December 31, 1994, and prior to December 31, 2011, shall mean the gross investment

HB0902

- 124 -

LRB101 08006 RLC 53065 b

income for the taxable year and, for tax years ending on or after December 31, 2011, shall mean all amounts included in life insurance gross income under Section 803(a)(3) of the Internal Revenue Code.

(c) Trusts and estates.

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

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

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

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

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

HB0902

- 125 -

LRB101 08006 RLC 53065 b

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

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

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

23 (ii) the addition modification relating to the
24 net operating loss carried back or forward to the
25 taxable year from any taxable year ending prior to
26 December 31, 1986 shall not exceed the amount of

1 such carryback or carryforward;

2 For taxable years in which there is a net operating
3 loss carryback or carryforward from more than one other
4 taxable year ending prior to December 31, 1986, the
5 addition modification provided in this subparagraph
6 (E) shall be the sum of the amounts computed
7 independently under the preceding provisions of this

8 subparagraph (E) for each such taxable year;

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

15 (G) An amount equal to the amount of the capital
16 gain deduction allowable under the Internal Revenue
17 Code, to the extent deducted from gross income in the
18 computation of taxable income;

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

24 (G-10) For taxable years 2001 and thereafter, an
25 amount equal to the bonus depreciation deduction taken
26 on the taxpayer's federal income tax return for the

HB0902

- 127 -

LRB101 08006 RLC 53065 b

1 taxable year under subsection (k) of Section 168 of the
2 Internal Revenue Code; and

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

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

16 equal to that subtraction modification.

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

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

HB0902

- 128 -

LRB101 08006 RLC 53065 b

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

21 This paragraph shall not apply to the following:

22 (i) an item of interest paid, accrued, or
23 incurred, directly or indirectly, to a person who

24 is subject in a foreign country or state, other
25 than a state which requires mandatory unitary
26 reporting, to a tax on or measured by net income

HB0902

- 129 -

LRB101 08006 RLC 53065 b

1 with respect to such interest; or

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

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

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

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

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

HB0902

- 130 -

LRB101 08006 RLC 53065 b

1 if the taxpayer and the Director agree in writing

2 to the application or use of an alternative method
3 of apportionment under Section 304(f).

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

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

HB0902

- 131 -

LRB101 08006 RLC 53065 b

1 because he or she is ordinarily required to apportion
2 business income under different subsections of Section
3 304. The addition modification required by this
4 subparagraph shall be reduced to the extent that
5 dividends were included in base income of the unitary
6 group for the same taxable year and received by the
7 taxpayer or by a member of the taxpayer's unitary
8 business group (including amounts included in gross
9 income pursuant to Sections 951 through 964 of the

10 Internal Revenue Code and amounts included in gross
11 income under Section 78 of the Internal Revenue Code)
12 with respect to the stock of the same person to whom
13 the intangible expenses and costs were directly or
14 indirectly paid, incurred, or accrued. The preceding
15 sentence shall not apply to the extent that the same
16 dividends caused a reduction to the addition
17 modification required under Section 203(c)(2)(G-12) of
18 this Act. As used in this subparagraph, the term
19 "intangible expenses and costs" includes: (1)
20 expenses, losses, and costs for or related to the
21 direct or indirect acquisition, use, maintenance or
22 management, ownership, sale, exchange, or any other
23 disposition of intangible property; (2) losses
24 incurred, directly or indirectly, from factoring
25 transactions or discounting transactions; (3) royalty,
26 patent, technical, and copyright fees; (4) licensing

HB0902

- 132 -

LRB101 08006 RLC 53065 b

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

6 This paragraph shall not apply to the following:

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

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

18 following:

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

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

HB0902

- 133 -

LRB101 08006 RLC 53065 b

1 income tax, and is paid pursuant to a contract
2 or agreement that reflects arm's-length terms;
3 or

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

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

21 (G-14) For taxable years ending on or after
22 December 31, 2008, an amount equal to the amount of
23 insurance premium expenses and costs otherwise allowed
24 as a deduction in computing base income, and that were
25 paid, accrued, or incurred, directly or indirectly, to

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

21 (G-15) An amount equal to the credit allowable to
22 the taxpayer under Section 218(a) of this Act,
23 determined without regard to Section 218(c) of this
24 Act;

25 (G-16) For taxable years ending on or after
26 December 31, 2017, an amount equal to the deduction

1 allowed under Section 199 of the Internal Revenue Code
2 for the taxable year;

3 and by deducting from the total so obtained the sum of the

4 following amounts:

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

16 (I) The valuation limitation amount;

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

20 (K) An amount equal to all amounts included in
21 taxable income as modified by subparagraphs (A), (B),
22 (C), (D), (E), (F) and (G) which are exempt from
23 taxation by this State either by reason of its statutes
24 or Constitution or by reason of the Constitution,
25 treaties or statutes of the United States; provided
26 that, in the case of any statute of this State that

HB0902

- 136 -

LRB101 08006 RLC 53065 b

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

5 (L) With the exception of any amounts subtracted
6 under subparagraph (K), an amount equal to the sum of
7 all amounts disallowed as deductions by (i) Sections
8 171(a)(2) and 265(a)(2) of the Internal Revenue Code,
9 and all amounts of expenses allocable to interest and
10 disallowed as deductions by Section 265(a)(1). ~~265(1)~~
11 of the Internal Revenue Code; and (ii) for taxable

12 years ending on or after August 13, 1999, Sections
13 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the
14 Internal Revenue Code, plus, (iii) for taxable years
15 ending on or after December 31, 2011, Section 45G(e)(3)
16 of the Internal Revenue Code and, for taxable years
17 ending on or after December 31, 2008, any amount
18 included in gross income under Section 87 of the
19 Internal Revenue Code; the provisions of this
20 subparagraph are exempt from the provisions of Section
21 250;

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

HB0902

- 137 -

LRB101 08006 RLC 53065 b

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

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

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

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

20 the Internal Revenue Code;

21 (Q) For taxable year 1999 and thereafter, an amount
22 equal to the amount of any (i) distributions, to the
23 extent includible in gross income for federal income
24 tax purposes, made to the taxpayer because of his or
25 her status as a victim of persecution for racial or
26 religious reasons by Nazi Germany or any other Axis

HB0902

- 138 -

LRB101 08006 RLC 53065 b

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

1 of Section 250;

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

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

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

19 (3) for taxable years ending after December
20 31, 2005:

21 (i) for property on which a bonus
22 depreciation deduction of 30% of the adjusted
23 basis was taken, "x" equals "y" multiplied by
24 30 and then divided by 70 (or "y" multiplied by
25 0.429); and

26 (ii) for property on which a bonus

1 depreciation deduction of 50% of the adjusted
2 basis was taken, "x" equals "y" multiplied by
3 1.0.

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

6 property may not exceed the amount of the bonus
7 depreciation deduction taken on that property on the
8 taxpayer's federal income tax return under subsection
9 (k) of Section 168 of the Internal Revenue Code. This
10 subparagraph (R) is exempt from the provisions of
11 Section 250;

12 (S) If the taxpayer sells, transfers, abandons, or
13 otherwise disposes of property for which the taxpayer
14 was required in any taxable year to make an addition
15 modification under subparagraph (G-10), then an amount
16 equal to that addition modification.

17 If the taxpayer continues to own property through
18 the last day of the last tax year for which the
19 taxpayer may claim a depreciation deduction for
20 federal income tax purposes and for which the taxpayer
21 was required in any taxable year to make an addition
22 modification under subparagraph (G-10), then an amount
23 equal to that addition modification.

24 The taxpayer is allowed to take the deduction under
25 this subparagraph only once with respect to any one
26 piece of property.

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

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

14 is required to make an addition modification with
15 respect to such transaction under Section
16 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
17 203(d)(2)(D-8), but not to exceed the amount of such
18 addition modification. This subparagraph (T) is exempt
19 from the provisions of Section 250;

20 (U) An amount equal to the interest income taken
21 into account for the taxable year (net of the
22 deductions allocable thereto) with respect to
23 transactions with (i) a foreign person who would be a
24 member of the taxpayer's unitary business group but for
25 the fact the foreign person's business activity
26 outside the United States is 80% or more of that

HB0902

- 142 -

LRB101 08006 RLC 53065 b

1 person's total business activity and (ii) for taxable
2 years ending on or after December 31, 2008, to a person
3 who would be a member of the same unitary business
4 group but for the fact that the person is prohibited
5 under Section 1501(a)(27) from being included in the
6 unitary business group because he or she is ordinarily
7 required to apportion business income under different
8 subsections of Section 304, but not to exceed the
9 addition modification required to be made for the same
10 taxable year under Section 203(c)(2)(G-12) for
11 interest paid, accrued, or incurred, directly or
12 indirectly, to the same person. This subparagraph (U)
13 is exempt from the provisions of Section 250;

14 (V) An amount equal to the income from intangible
15 property taken into account for the taxable year (net
16 of the deductions allocable thereto) with respect to
17 transactions with (i) a foreign person who would be a
18 member of the taxpayer's unitary business group but for
19 the fact that the foreign person's business activity
20 outside the United States is 80% or more of that
21 person's total business activity and (ii) for taxable

22 years ending on or after December 31, 2008, to a person
23 who would be a member of the same unitary business
24 group but for the fact that the person is prohibited
25 under Section 1501(a)(27) from being included in the
26 unitary business group because he or she is ordinarily

HB0902

- 143 -

LRB101 08006 RLC 53065 b

1 required to apportion business income under different
2 subsections of Section 304, but not to exceed the
3 addition modification required to be made for the same
4 taxable year under Section 203(c)(2)(G-13) for
5 intangible expenses and costs paid, accrued, or
6 incurred, directly or indirectly, to the same foreign
7 person. This subparagraph (V) is exempt from the
8 provisions of Section 250;

9 (W) in the case of an estate, an amount equal to
10 all amounts included in such total pursuant to the
11 provisions of Section 111 of the Internal Revenue Code
12 as a recovery of items previously deducted by the
13 decedent from adjusted gross income in the computation
14 of taxable income. This subparagraph (W) is exempt from
15 Section 250;

16 (X) an amount equal to the refund included in such
17 total of any tax deducted for federal income tax
18 purposes, to the extent that deduction was added back
19 under subparagraph (F). This subparagraph (X) is
20 exempt from the provisions of Section 250; ~~and~~

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

HB0902

- 144 -

LRB101 08006 RLC 53065 b

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

10 (Z) An amount equal to all the ordinary and
11 necessary expenses paid or incurred during the taxable
12 year in carrying on the business of a cannabis
13 establishment as defined in Section 10 of the Cannabis
14 Legalization Equity Act if the cannabis establishment
15 is in compliance with that Act, including:

16 (i) a reasonable allowance for salaries or
17 other compensation for personal services actually
18 rendered;

19 (ii) traveling expenses (including amounts
20 expended for meals and lodging other than amounts
21 which are lavish or extravagant under the
22 circumstances) while away from home in the pursuit
23 of the business of the cannabis establishment; and

24 (iii) rentals or other payments required to be
25 made as a condition to the continued use or
26 possession, for purposes of the business of a

1 cannabis establishment, of property to which the
2 taxpayer has not taken or is not taking title or in
3 which he or she has no equity.

4 (3) Limitation. The amount of any modification
5 otherwise required under this subsection shall, under
6 regulations prescribed by the Department, be adjusted by
7 any amounts included therein which were properly paid,

8 credited, or required to be distributed, or permanently set
9 aside for charitable purposes pursuant to Internal Revenue
10 Code Section 642(c) during the taxable year.

11 (d) Partnerships.

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

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

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

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

25 (C) The amount of deductions allowed to the

HB0902

- 146 -

LRB101 08006 RLC 53065 b

1 partnership pursuant to Section 707 (c) of the Internal
2 Revenue Code in calculating its taxable income;

3 (D) An amount equal to the amount of the capital
4 gain deduction allowable under the Internal Revenue
5 Code, to the extent deducted from gross income in the
6 computation of taxable income;

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

12 (D-6) If the taxpayer sells, transfers, abandons,
13 or otherwise disposes of property for which the
14 taxpayer was required in any taxable year to make an
15 addition modification under subparagraph (D-5), then
16 an amount equal to the aggregate amount of the

17 deductions taken in all taxable years under
18 subparagraph (O) with respect to that property.

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

26 The taxpayer is required to make the addition

HB0902

- 147 -

LRB101 08006 RLC 53065 b

1 modification under this subparagraph only once with
2 respect to any one piece of property;

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

25 through 964 of the Internal Revenue Code and amounts
26 included in gross income under Section 78 of the

HB0902

- 148 -

LRB101 08006 RLC 53065 b

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

4 This paragraph shall not apply to the following:

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

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

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

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

26 (iii) the taxpayer can establish, based on

HB0902

- 149 -

LRB101 08006 RLC 53065 b

1 clear and convincing evidence, that the interest
2 paid, accrued, or incurred relates to a contract or

3 agreement entered into at arm's-length rates and
4 terms and the principal purpose for the payment is
5 not federal or Illinois tax avoidance; or

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

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

22 (D-8) An amount equal to the amount of intangible
23 expenses and costs otherwise allowed as a deduction in
24 computing base income, and that were paid, accrued, or
25 incurred, directly or indirectly, (i) for taxable
26 years ending on or after December 31, 2004, to a

1 foreign person who would be a member of the same
2 unitary business group but for the fact that the
3 foreign person's business activity outside the United
4 States is 80% or more of that person's total business
5 activity and (ii) for taxable years ending on or after
6 December 31, 2008, to a person who would be a member of
7 the same unitary business group but for the fact that
8 the person is prohibited under Section 1501(a)(27)
9 from being included in the unitary business group
10 because he or she is ordinarily required to apportion

11 business income under different subsections of Section
12 304. The addition modification required by this
13 subparagraph shall be reduced to the extent that
14 dividends were included in base income of the unitary
15 group for the same taxable year and received by the
16 taxpayer or by a member of the taxpayer's unitary
17 business group (including amounts included in gross
18 income pursuant to Sections 951 through 964 of the
19 Internal Revenue Code and amounts included in gross
20 income under Section 78 of the Internal Revenue Code)
21 with respect to the stock of the same person to whom
22 the intangible expenses and costs were directly or
23 indirectly paid, incurred or accrued. The preceding
24 sentence shall not apply to the extent that the same
25 dividends caused a reduction to the addition
26 modification required under Section 203(d)(2)(D-7) of

HB0902

- 151 -

LRB101 08006 RLC 53065 b

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

15 This paragraph shall not apply to the following:

16 (i) any item of intangible expenses or costs
17 paid, accrued, or incurred, directly or
18 indirectly, from a transaction with a person who is

19 subject in a foreign country or state, other than a
20 state which requires mandatory unitary reporting,
21 to a tax on or measured by net income with respect
22 to such item; or

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

HB0902

- 152 -

LRB101 08006 RLC 53065 b

1 following:

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

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

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

21 Nothing in this subsection shall preclude the
22 Director from making any other adjustment
23 otherwise allowed under Section 404 of this Act for
24 any tax year beginning after the effective date of
25 this amendment provided such adjustment is made
26 pursuant to regulation adopted by the Department

1 and such regulations provide methods and standards
2 by which the Department will utilize its authority
3 under Section 404 of this Act;

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

1 the same dividends caused a reduction to the addition
2 modification required under Section 203(d)(2)(D-7) or
3 Section 203(d)(2)(D-8) of this Act;

4 (D-10) An amount equal to the credit allowable to

5 the taxpayer under Section 218(a) of this Act,
6 determined without regard to Section 218(c) of this
7 Act;

8 (D-11) For taxable years ending on or after
9 December 31, 2017, an amount equal to the deduction
10 allowed under Section 199 of the Internal Revenue Code
11 for the taxable year;

12 and by deducting from the total so obtained the following
13 amounts:

14 (E) The valuation limitation amount;

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

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

HB0902

- 155 -

LRB101 08006 RLC 53065 b

1 of bond premium amortization;

2 (H) Any income of the partnership which
3 constitutes personal service income as defined in
4 Section 1348(b)(1) of the Internal Revenue Code (as in
5 effect December 31, 1981) or a reasonable allowance for
6 compensation paid or accrued for services rendered by
7 partners to the partnership, whichever is greater;
8 this subparagraph (H) is exempt from the provisions of
9 Section 250;

10 (I) An amount equal to all amounts of income
11 distributable to an entity subject to the Personal
12 Property Tax Replacement Income Tax imposed by

13 subsections (c) and (d) of Section 201 of this Act
14 including amounts distributable to organizations
15 exempt from federal income tax by reason of Section
16 501(a) of the Internal Revenue Code; this subparagraph
17 (I) is exempt from the provisions of Section 250;

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

HB0902

- 156 -

LRB101 08006 RLC 53065 b

1 the Internal Revenue Code, plus, (iii) for taxable
2 years ending on or after December 31, 2011, Section
3 45G(e)(3) of the Internal Revenue Code and, for taxable
4 years ending on or after December 31, 2008, any amount
5 included in gross income under Section 87 of the
6 Internal Revenue Code; the provisions of this
7 subparagraph are exempt from the provisions of Section
8 250;

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

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

20 (M) An amount equal to those dividends included in

21 such total that were paid by a corporation that
22 conducts business operations in a federally designated
23 Foreign Trade Zone or Sub-Zone and that is designated a
24 High Impact Business located in Illinois; provided
25 that dividends eligible for the deduction provided in
26 subparagraph (K) of paragraph (2) of this subsection

HB0902

- 157 -

LRB101 08006 RLC 53065 b

1 shall not be eligible for the deduction provided under
2 this subparagraph (M);

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

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

14 (1) "y" equals the amount of the depreciation
15 deduction taken for the taxable year on the
16 taxpayer's federal income tax return on property
17 for which the bonus depreciation deduction was
18 taken in any year under subsection (k) of Section
19 168 of the Internal Revenue Code, but not including
20 the bonus depreciation deduction;

21 (2) for taxable years ending on or before
22 December 31, 2005, "x" equals "y" multiplied by 30
23 and then divided by 70 (or "y" multiplied by
24 0.429); and

25 (3) for taxable years ending after December
26 31, 2005:

1 (i) for property on which a bonus
2 depreciation deduction of 30% of the adjusted
3 basis was taken, "x" equals "y" multiplied by
4 30 and then divided by 70 (or "y" multiplied by
5 0.429); and

6 (ii) for property on which a bonus
7 depreciation deduction of 50% of the adjusted
8 basis was taken, "x" equals "y" multiplied by
9 1.0.

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

18 (P) If the taxpayer sells, transfers, abandons, or
19 otherwise disposes of property for which the taxpayer
20 was required in any taxable year to make an addition
21 modification under subparagraph (D-5), then an amount
22 equal to that addition modification.

23 If the taxpayer continues to own property through
24 the last day of the last tax year for which the
25 taxpayer may claim a depreciation deduction for
26 federal income tax purposes and for which the taxpayer

1 was required in any taxable year to make an addition
2 modification under subparagraph (D-5), then an amount
3 equal to that addition modification.

4 The taxpayer is allowed to take the deduction under
5 this subparagraph only once with respect to any one
6 piece of property.

7 This subparagraph (P) is exempt from the
8 provisions of Section 250;

9 (Q) The amount of (i) any interest income (net of
10 the deductions allocable thereto) taken into account
11 for the taxable year with respect to a transaction with
12 a taxpayer that is required to make an addition
13 modification with respect to such transaction under
14 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
15 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
16 the amount of such addition modification and (ii) any
17 income from intangible property (net of the deductions
18 allocable thereto) taken into account for the taxable
19 year with respect to a transaction with a taxpayer that
20 is required to make an addition modification with
21 respect to such transaction under Section
22 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
23 203(d)(2)(D-8), but not to exceed the amount of such
24 addition modification. This subparagraph (Q) is exempt
25 from Section 250;

26 (R) An amount equal to the interest income taken

HB0902

- 160 -

LRB101 08006 RLC 53065 b

1 into account for the taxable year (net of the
2 deductions allocable thereto) with respect to
3 transactions with (i) a foreign person who would be a
4 member of the taxpayer's unitary business group but for
5 the fact that the foreign person's business activity
6 outside the United States is 80% or more of that
7 person's total business activity and (ii) for taxable
8 years ending on or after December 31, 2008, to a person
9 who would be a member of the same unitary business
10 group but for the fact that the person is prohibited
11 under Section 1501(a)(27) from being included in the
12 unitary business group because he or she is ordinarily
13 required to apportion business income under different
14 subsections of Section 304, but not to exceed the

15 addition modification required to be made for the same
16 taxable year under Section 203(d)(2)(D-7) for interest
17 paid, accrued, or incurred, directly or indirectly, to
18 the same person. This subparagraph (R) is exempt from
19 Section 250;

20 (S) An amount equal to the income from intangible
21 property taken into account for the taxable year (net
22 of the deductions allocable thereto) with respect to
23 transactions with (i) a foreign person who would be a
24 member of the taxpayer's unitary business group but for
25 the fact that the foreign person's business activity
26 outside the United States is 80% or more of that

HB0902

- 161 -

LRB101 08006 RLC 53065 b

1 person's total business activity and (ii) for taxable
2 years ending on or after December 31, 2008, to a person
3 who would be a member of the same unitary business
4 group but for the fact that the person is prohibited
5 under Section 1501(a)(27) from being included in the
6 unitary business group because he or she is ordinarily
7 required to apportion business income under different
8 subsections of Section 304, but not to exceed the
9 addition modification required to be made for the same
10 taxable year under Section 203(d)(2)(D-8) for
11 intangible expenses and costs paid, accrued, or
12 incurred, directly or indirectly, to the same person.
13 This subparagraph (S) is exempt from Section 250; and

14 (T) For taxable years ending on or after December
15 31, 2011, in the case of a taxpayer who was required to
16 add back any insurance premiums under Section
17 203(d)(2)(D-9), such taxpayer may elect to subtract
18 that part of a reimbursement received from the
19 insurance company equal to the amount of the expense or
20 loss (including expenses incurred by the insurance
21 company) that would have been taken into account as a
22 deduction for federal income tax purposes if the

23 expense or loss had been uninsured. If a taxpayer makes
24 the election provided for by this subparagraph (T), the
25 insurer to which the premiums were paid must add back
26 to income the amount subtracted by the taxpayer

HB0902

- 162 -

LRB101 08006 RLC 53065 b

1 pursuant to this subparagraph (T). This subparagraph
2 (T) is exempt from the provisions of Section 250; ~~and~~
3 (U) An amount equal to all the ordinary and
4 necessary expenses paid or incurred during the taxable
5 year in carrying on the business of a cannabis
6 establishment as defined in Section 10 of the Cannabis
7 Legalization Equity Act if the cannabis establishment
8 is in compliance with that Act, including:

9 (i) a reasonable allowance for salaries or
10 other compensation for personal services actually
11 rendered;

12 (ii) traveling expenses (including amounts
13 expended for meals and lodging other than amounts
14 which are lavish or extravagant under the
15 circumstances) while away from home in the pursuit
16 of the business of the cannabis establishment; and

17 (iii) rentals or other payments required to be
18 made as a condition to the continued use or
19 possession, for purposes of the business of a
20 cannabis establishment, of property to which the
21 taxpayer has not taken or is not taking title or in
22 which he or she has no equity.

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

24 (1) In general. Subject to the provisions of paragraph

25 (2) and subsection (b)(3), for purposes of this Section and

HB0902

- 163 -

LRB101 08006 RLC 53065 b

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

HB0902

- 164 -

LRB101 08006 RLC 53065 b

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

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

8 (A) Certain life insurance companies. In the case

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

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

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

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

HB0902

- 165 -

LRB101 08006 RLC 53065 b

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

13 (F) Cooperatives. In the case of a cooperative
14 corporation or association, the taxable income of such
15 organization determined in accordance with the
16 provisions of Section 1381 through 1388 of the Internal

17 Revenue Code, but without regard to the prohibition
18 against offsetting losses from patronage activities
19 against income from nonpatronage activities; except
20 that a cooperative corporation or association may make
21 an election to follow its federal income tax treatment
22 of patronage losses and nonpatronage losses. In the
23 event such election is made, such losses shall be
24 computed and carried over in a manner consistent with
25 subsection (a) of Section 207 of this Act and
26 apportioned by the apportionment factor reported by

HB0902

- 166 -

LRB101 08006 RLC 53065 b

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

17 (G) Subchapter S corporations. In the case of: (i)
18 a Subchapter S corporation for which there is in effect
19 an election for the taxable year under Section 1362 of
20 the Internal Revenue Code, the taxable income of such
21 corporation determined in accordance with Section
22 1363(b) of the Internal Revenue Code, except that
23 taxable income shall take into account those items
24 which are required by Section 1363(b)(1) of the

25 Internal Revenue Code to be separately stated; and (ii)
26 a Subchapter S corporation for which there is in effect

HB0902

- 167 -

LRB101 08006 RLC 53065 b

1 a federal election to opt out of the provisions of the
2 Subchapter S Revision Act of 1982 and have applied
3 instead the prior federal Subchapter S rules as in
4 effect on July 1, 1982, the taxable income of such
5 corporation determined in accordance with the federal
6 Subchapter S rules as in effect on July 1, 1982; and

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

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

HB0902

- 168 -

LRB101 08006 RLC 53065 b

1 taxable year or the average of the apportionment fractions
2 computed for the business under Section 304 of this Act for

3 the taxable year and for the 2 immediately preceding
4 taxable years.

5 (f) Valuation limitation amount.

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

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

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

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

23 (A) If the fair market value of property referred
24 to in paragraph (1) was readily ascertainable on August
25 1, 1969, the pre-August 1, 1969 appreciation amount for

1 such property is the lesser of (i) the excess of such
2 fair market value over the taxpayer's basis (for
3 determining gain) for such property on that date
4 (determined under the Internal Revenue Code as in
5 effect on that date), or (ii) the total gain realized
6 and reportable for federal income tax purposes in
7 respect of the sale, exchange or other disposition of
8 such property.

9 (B) If the fair market value of property referred
10 to in paragraph (1) was not readily ascertainable on
11 August 1, 1969, the pre-August 1, 1969 appreciation

12 amount for such property is that amount which bears the
13 same ratio to the total gain reported in respect of the
14 property for federal income tax purposes for the
15 taxable year, as the number of full calendar months in
16 that part of the taxpayer's holding period for the
17 property ending July 31, 1969 bears to the number of
18 full calendar months in the taxpayer's entire holding
19 period for the property.

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

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

HB0902

- 170 -

LRB101 08006 RLC 53065 b

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

10 (Source: P.A. 100-22, eff. 7-6-17; 100-905, eff. 8-17-18;
11 revised 10-29-18.)

12 Section 925. The Compassionate Use of Medical Cannabis
13 Pilot Program Act is amended by changing Section 10 as follows:

14 (410 ILCS 130/10)

15 (Section scheduled to be repealed on July 1, 2020)

16 Sec. 10. Definitions. The following terms, as used in this
17 Act, shall have the meanings set forth in this Section:

18 (a) "Adequate supply" means:

19 (1) 2.5 ounces of usable cannabis during a period of 14
20 days and that is derived solely from an intrastate source.

21 (2) Subject to the rules of the Department of Public
22 Health, a patient may apply for a waiver where a physician
23 provides a substantial medical basis in a signed, written

HB0902

- 171 -

LRB101 08006 RLC 53065 b

1 statement asserting that, based on the patient's medical
2 history, in the physician's professional judgment, 2.5
3 ounces is an insufficient adequate supply for a 14-day
4 period to properly alleviate the patient's debilitating
5 medical condition or symptoms associated with the
6 debilitating medical condition.

7 (3) This subsection may not be construed to authorize
8 the possession of more than 2.5 ounces at any time without
9 authority from the Department of Public Health.

10 (4) The pre-mixed weight of medical cannabis used in
11 making a cannabis infused product shall apply toward the
12 limit on the total amount of medical cannabis a registered
13 qualifying patient may possess at any one time.

14 (b) "Cannabis" has the meaning given that term in Section 3
15 of the Cannabis Control Act.

16 (c) "Cannabis plant monitoring system" means a system that
17 includes, but is not limited to, testing and data collection
18 established and maintained by the registered cultivation
19 center and available to the Department for the purposes of
20 documenting each cannabis plant and for monitoring plant
21 development throughout the life cycle of a cannabis plant
22 cultivated for the intended use by a qualifying patient from
23 seed planting to final packaging.

24 (d) "Cardholder" means a qualifying patient or a designated
25 caregiver who has been issued and possesses a valid registry
26 identification card by the Department of Public Health.

HB0902

- 172 -

LRB101 08006 RLC 53065 b

1 (e) "Cultivation center" means a facility operated by an
2 organization or business that is registered by the Department
3 of Agriculture to perform necessary activities to provide only
4 registered medical cannabis dispensing organizations with
5 usable medical cannabis.

6 (f) "Cultivation center agent" means a principal officer,
7 board member, employee, or agent of a registered cultivation
8 center who is 21 years of age or older and has not been
9 convicted of an excluded offense.

10 (g) "Cultivation center agent identification card" means a
11 document issued by the Department of Agriculture that
12 identifies a person as a cultivation center agent.

13 (h) ~~(Blank). "Debilitating medical condition" means one or~~
14 ~~more of the following:~~

15 ~~(1) cancer, glaucoma, positive status for human~~
16 ~~immunodeficiency virus, acquired immune deficiency~~
17 ~~syndrome, hepatitis C, amyotrophic lateral sclerosis,~~
18 ~~Crohn's disease, agitation of Alzheimer's disease,~~
19 ~~cachexia/wasting syndrome, muscular dystrophy, severe~~
20 ~~fibromyalgia, spinal cord disease, including but not~~
21 ~~limited to arachnoiditis, Tarlov cysts, hydromyelia,~~
22 ~~syringomyelia, Rheumatoid arthritis, fibrous dysplasia,~~
23 ~~spinal cord injury, traumatic brain injury and~~
24 ~~post-concussion syndrome, Multiple Sclerosis,~~
25 ~~Arnold-Chiari malformation and Syringomyelia,~~
26 ~~Spinocerebellar Ataxia (SCA), Parkinson's, Tourette's,~~

1 ~~Myoclonus, Dystonia, Reflex Sympathetic Dystrophy, RSD~~
2 ~~(Complex Regional Pain Syndromes Type I), Causalgia, CRPS~~
3 ~~(Complex Regional Pain Syndromes Type II),~~
4 ~~Neurofibromatosis, Chronic Inflammatory Demyelinating~~
5 ~~Polyneuropathy, Sjogren's syndrome, Lupus, Interstitial~~
6 ~~Cystitis, Myasthenia Gravis, Hydrocephalus, nail-patella~~
7 ~~syndrome, residual limb pain, seizures (including those~~
8 ~~characteristic of epilepsy), post-traumatic stress~~

9 ~~disorder (PTSD), or the treatment of these conditions;~~

10 ~~(1.5) terminal illness with a diagnosis of 6 months or~~
11 ~~less; if the terminal illness is not one of the qualifying~~
12 ~~debilitating medical conditions, then the physician shall~~
13 ~~on the certification form identify the cause of the~~
14 ~~terminal illness; or~~

15 ~~(2) any other debilitating medical condition or its~~
16 ~~treatment that is added by the Department of Public Health~~
17 ~~by rule as provided in Section 45.~~

18 (i) "Designated caregiver" means a person who: (1) is at
19 least 21 years of age; (2) has agreed to assist with a
20 patient's medical use of cannabis; (3) has not been convicted
21 of an excluded offense; and (4) assists no more than one
22 registered qualifying patient with his or her medical use of
23 cannabis.

24 (j) "Dispensing organization agent identification card"
25 means a document issued by the Department of Financial and
26 Professional Regulation that identifies a person as a medical

HB0902

- 174 -

LRB101 08006 RLC 53065 b

1 cannabis dispensing organization agent.

2 (k) "Enclosed, locked facility" means a room, greenhouse,
3 building, or other enclosed area equipped with locks or other
4 security devices that permit access only by a cultivation
5 center's agents or a dispensing organization's agent working
6 for the registered cultivation center or the registered
7 dispensing organization to cultivate, store, and distribute
8 cannabis for registered qualifying patients.

9 (l) "Excluded offense" for cultivation center agents and
10 dispensing organizations means:

11 (1) a violent crime defined in Section 3 of the Rights
12 of Crime Victims and Witnesses Act or a substantially
13 similar offense that was classified as a felony in the
14 jurisdiction where the person was convicted; or

15 (2) a violation of a state or federal controlled
16 substance law, the Cannabis Control Act, or the
17 Methamphetamine Control and Community Protection Act that

18 was classified as a felony in the jurisdiction where the
19 person was convicted, except that the registering
20 Department may waive this restriction if the person
21 demonstrates to the registering Department's satisfaction
22 that his or her conviction was for the possession,
23 cultivation, transfer, or delivery of a reasonable amount
24 of cannabis intended for medical use. This exception does
25 not apply if the conviction was under state law and
26 involved a violation of an existing medical cannabis law.

HB0902

- 175 -

LRB101 08006 RLC 53065 b

1 For purposes of this subsection, the Department of Public
2 Health shall determine by emergency rule within 30 days after
3 the effective date of this amendatory Act of the 99th General
4 Assembly what constitutes a "reasonable amount".

5 (1-5) (Blank).

6 (1-10) "Illinois Cannabis Tracking System" means a
7 web-based system established and maintained by the Department
8 of Public Health that is available to the Department of
9 Agriculture, the Department of Financial and Professional
10 Regulation, the Illinois State Police, and registered medical
11 cannabis dispensing organizations on a 24-hour basis to upload
12 written certifications for Opioid Alternative Pilot Program
13 participants, to verify Opioid Alternative Pilot Program
14 participants, to verify Opioid Alternative Pilot Program
15 participants' available cannabis allotment and assigned
16 dispensary, and the tracking of the date of sale, amount, and
17 price of medical cannabis purchased by an Opioid Alternative
18 Pilot Program participant.

19 (m) "Medical cannabis cultivation center registration"
20 means a registration issued by the Department of Agriculture.

21 (n) "Medical cannabis container" means a sealed,
22 traceable, food compliant, tamper resistant, tamper evident
23 container, or package used for the purpose of containment of
24 medical cannabis from a cultivation center to a dispensing
25 organization.

26 (o) "Medical cannabis dispensing organization", or

1 "dispensing organization", or "dispensary organization" means
2 a facility operated by an organization or business that is
3 registered by the Department of Financial and Professional
4 Regulation to acquire medical cannabis from a registered
5 cultivation center for the purpose of dispensing cannabis,
6 paraphernalia, or related supplies and educational materials
7 to registered qualifying patients, individuals with a
8 provisional registration for qualifying patient cardholder
9 status, or an Opioid Alternative Pilot Program participant.

10 (p) "Medical cannabis dispensing organization agent" or
11 "dispensing organization agent" means a principal officer,
12 board member, employee, or agent of a registered medical
13 cannabis dispensing organization who is 21 years of age or
14 older and has not been convicted of an excluded offense.

15 (q) "Medical cannabis infused product" means food, oils,
16 ointments, or other products containing usable cannabis that
17 are not smoked.

18 (r) "Medical use" means the acquisition; administration;
19 delivery; possession; transfer; transportation; or use of
20 cannabis to treat or alleviate a registered qualifying
21 patient's debilitating medical condition or symptoms
22 associated with the patient's debilitating medical condition.

23 (r-5) "Opioid" means a narcotic drug or substance that is a
24 Schedule II controlled substance under paragraph (1), (2), (3),
25 or (5) of subsection (b) or under subsection (c) of Section 206
26 of the Illinois Controlled Substances Act.

1 (r-10) "Opioid Alternative Pilot Program participant"
2 means an individual who has received a valid written
3 certification to participate in the Opioid Alternative Pilot
4 Program for a medical condition for which an opioid has been or
5 could be prescribed by a physician based on generally accepted

standards of care.

(s) "Physician" means a doctor of medicine or doctor of osteopathy licensed under the Medical Practice Act of 1987 to practice medicine and who has a controlled substances license under Article III of the Illinois Controlled Substances Act. It does not include a licensed practitioner under any other Act including but not limited to the Illinois Dental Practice Act.

(s-5) "Provisional registration" means a document issued by the Department of Public Health to a qualifying patient who has submitted: (1) an online application and paid a fee to participate in Compassionate Use of Medical Cannabis Pilot Program pending approval or denial of the patient's application; or (2) a completed application for terminal illness.

(t) "Qualifying patient" means a person who has been diagnosed by a physician with a condition that the physician believes would benefit from the use of medical cannabis as having a debilitating medical condition.

(u) "Registered" means licensed, permitted, or otherwise certified by the Department of Agriculture, Department of Public Health, or Department of Financial and Professional

HB0902

- 178 -

LRB101 08006 RLC 53065 b

Regulation.

(v) "Registry identification card" means a document issued by the Department of Public Health that identifies a person as a registered qualifying patient or registered designated caregiver.

(w) "Usable cannabis" means the seeds, leaves, buds, and flowers of the cannabis plant and any mixture or preparation thereof, but does not include the stalks, and roots of the plant. It does not include the weight of any non-cannabis ingredients combined with cannabis, such as ingredients added to prepare a topical administration, food, or drink.

(x) "Verification system" means a Web-based system established and maintained by the Department of Public Health that is available to the Department of Agriculture, the

Department of Financial and Professional Regulation, law
enforcement personnel, and registered medical cannabis
dispensing organization agents on a 24-hour basis for the
verification of registry identification cards, the tracking of
delivery of medical cannabis to medical cannabis dispensing
organizations, and the tracking of the date of sale, amount,
and price of medical cannabis purchased by a registered
qualifying patient.

(y) "Written certification" means a document dated and
signed by a physician, stating (1) that the qualifying patient
has a debilitating medical condition and specifying the
debilitating medical condition the qualifying patient has; and

HB0902

- 179 -

LRB101 08006 RLC 53065 b

(2) that (A) the physician is treating or managing treatment of
the patient's debilitating medical condition; or (B) an Opioid
Alternative Pilot Program participant has a medical condition
for which opioids have been or could be prescribed. A written
certification shall be made only in the course of a bona fide
physician-patient relationship, after the physician has
completed an assessment of either a qualifying patient's
medical history or Opioid Alternative Pilot Program
participant, reviewed relevant records related to the
patient's debilitating condition, and conducted a physical
examination.

(z) "Bona fide physician-patient relationship" means a
relationship established at a hospital, physician's office, or
other health care facility in which the physician has an
ongoing responsibility for the assessment, care, and treatment
of a patient's debilitating medical condition or a symptom of
the patient's debilitating medical condition.

A veteran who has received treatment at a VA hospital shall
be deemed to have a bona fide physician-patient relationship
with a VA physician if the patient has been seen for his or her
debilitating medical condition at the VA Hospital in accordance
with VA Hospital protocols.

A bona fide physician-patient relationship under this

subsection is a privileged communication within the meaning of
Section 8-802 of the Code of Civil Procedure.

(Source: P.A. 99-519, eff. 6-30-16; 100-1114, eff. 8-28-18.)

HB0902

- 180 -

LRB101 08006 RLC 53065 b

(410 ILCS 130/220 rep.)

Section 930. The Compassionate Use of Medical Cannabis
Pilot Program Act is amended by repealing Section 220.

Section 935. The Cannabis Control Act is amended by
changing Sections 4, 5, 7, 8, 9, 10, 12, and 16.2 and adding
Sections 3.5 and 4.1 as follows:

(720 ILCS 550/3.5 new)

Sec. 3.5. Applicability of Act. The possession,
cultivation, harvest, display, distribution, packaging,
processing, purchase, transportation, transfer, delivery,
sale, storage, and consumption of cannabis as provided for in
the Cannabis Legalization Equity Act is not a violation of this
Act.

(720 ILCS 550/4) (from Ch. 56 1/2, par. 704)

Sec. 4. It is unlawful for any person knowingly to possess
225 or more grams of cannabis outside the premises where the
cannabis was cultivated or an amount that exceeds the amount
that can reasonably be harvested from 24 mature cannabis sativa
plants. Any person regardless of age who violates this Section
section with respect to:

(a) 225 not more than 10 grams or more of any substance
containing cannabis is guilty of a civil law violation

HB0902

- 181 -

LRB101 08006 RLC 53065 b

punishable by a minimum fine of \$100 and a maximum fine of
\$200. The proceeds of the fine shall be payable to the
clerk of the circuit court. Within 30 days after the

4 deposit of the fine, the clerk shall distribute the
5 proceeds of the fine as follows:

6 (1) \$10 of the fine to the circuit clerk and \$10 of
7 the fine to the law enforcement agency that issued the
8 citation; the proceeds of each \$10 fine distributed to
9 the circuit clerk and each \$10 fine distributed to the
10 law enforcement agency that issued the citation for the
11 violation shall be used to defer the cost of automatic
12 expungements under paragraph (2.5) of subsection (a)
13 of Section 5.2 of the Criminal Identification Act;

14 (2) \$15 to the county to fund drug addiction
15 services;

16 (3) \$10 to the Office of the State's Attorneys
17 Appellate Prosecutor for use in training programs;

18 (4) \$10 to the State's Attorney; and

19 (5) any remainder of the fine to the law
20 enforcement agency that issued the citation for the
21 violation.

22 With respect to funds designated for the Department of
23 State Police, the moneys shall be remitted by the circuit
24 court clerk to the Department of State Police within one
25 month after receipt for deposit into the State Police
26 Operations Assistance Fund. With respect to funds

HB0902

- 182 -

LRB101 08006 RLC 53065 b

1 designated for the Department of Natural Resources, the
2 Department of Natural Resources shall deposit the moneys
3 into the Conservation Police Operations Assistance Fund;

4 (b) ~~(blank); more than 10 grams but not more than 30~~
5 ~~grams of any substance containing cannabis is guilty of a~~
6 ~~Class B misdemeanor;~~

7 (c) ~~(blank); more than 30 grams but not more than 100~~
8 ~~grams of any substance containing cannabis is guilty of a~~
9 ~~Class A misdemeanor; provided, that if any offense under~~
10 ~~this subsection (c) is a subsequent offense, the offender~~
11 ~~shall be guilty of a Class 4 felony;~~

12 (d) ~~(blank); more than 100 grams but not more than 500~~
13 ~~grams of any substance containing cannabis is guilty of a~~
14 ~~Class 4 felony; provided that if any offense under this~~
15 ~~subsection (d) is a subsequent offense, the offender shall~~
16 ~~be guilty of a Class 3 felony;~~

17 (e) ~~(blank); more than 500 grams but not more than~~
18 ~~2,000 grams of any substance containing cannabis is guilty~~
19 ~~of a Class 3 felony;~~

20 (f) ~~(blank); more than 2,000 grams but not more than~~
21 ~~5,000 grams of any substance containing cannabis is guilty~~
22 ~~of a Class 2 felony;~~

23 (g) ~~(blank). more than 5,000 grams of any substance~~
24 ~~containing cannabis is guilty of a Class 1 felony.~~

25 (Source: P.A. 99-697, eff. 7-29-16.)

HB0902

- 183 -

LRB101 08006 RLC 53065 b

1 (720 ILCS 550/4.1 new)

2 Sec. 4.1. Persons under 21 years of age. A person under 21
3 years of age in possession of 100 grams or less of cannabis is
4 guilty of a civil law violation charged by a Uniform Civil Law
5 Citation and punishable by forfeiture of the cannabis and
6 completion not to exceed 4 hours of instruction in a drug
7 awareness program. The parents or legal guardian of any
8 offender under the age of 18 shall be notified of the offense
9 and of available drug awareness programs, which shall be
10 established by the Department of Public Health. The Department
11 of Public Health shall set fees for the program sufficient to
12 cover all costs of administering the program, which shall not
13 exceed \$300. If an offender fails within one year of the notice
14 of the offense and available programs to complete a drug
15 awareness program, the person is guilty of a civil law
16 violation and shall pay a fine not to exceed \$300 or shall
17 complete up to 40 hours of community service, or both.

18 (720 ILCS 550/5) (from Ch. 56 1/2, par. 705)

19 Sec. 5. It is unlawful for any person knowingly to
20 manufacture, deliver, or possess with intent to deliver, or

21 manufacture, cannabis, except as authorized under the Cannabis
22 Legalization Equity Act. Any person who violates this Section
23 ~~section~~ with respect to:

24 (a) not more than 2.5 grams of any substance containing
25 cannabis is guilty of a Class B misdemeanor;

HB0902

- 184 -

LRB101 08006 RLC 53065 b

1 (b) more than 2.5 grams but not more than 10 grams of any
2 substance containing cannabis is guilty of a Class A
3 misdemeanor;

4 (c) more than 10 grams but not more than 30 grams of any
5 substance containing cannabis is guilty of a Class 4 felony;

6 (d) more than 30 grams but not more than 500 grams of any
7 substance containing cannabis is guilty of a Class 3 felony for
8 which a fine not to exceed \$50,000 may be imposed;

9 (e) more than 500 grams but not more than 2,000 grams of
10 any substance containing cannabis is guilty of a Class 2 felony
11 for which a fine not to exceed \$100,000 may be imposed;

12 (f) more than 2,000 grams but not more than 5,000 grams of
13 any substance containing cannabis is guilty of a Class 1 felony
14 for which a fine not to exceed \$150,000 may be imposed;

15 (g) more than 5,000 grams of any substance containing
16 cannabis is guilty of a Class X felony for which a fine not to
17 exceed \$200,000 may be imposed.

18 (Source: P.A. 90-397, eff. 8-15-97.)

19 (720 ILCS 550/7) (from Ch. 56 1/2, par. 707)

20 Sec. 7. (a) Any person who is at least 18 years of age who
21 violates Section 5 of this Act by delivering cannabis to a
22 person under 18 years of age who is at least 3 years his junior
23 may be sentenced to imprisonment for a term up to twice the
24 maximum term otherwise authorized by Section 5.

25 (b) Any person under 18 years of age who violates Section

HB0902

- 185 -

LRB101 08006 RLC 53065 b

1 4., 4.1., or 5 of this Act may be treated by the court in
2 accordance with the Juvenile Court Act of 1987.

3 (Source: P.A. 85-1209.)

4 (720 ILCS 550/8) (from Ch. 56 1/2, par. 708)

5 Sec. 8. It is unlawful for any person knowingly to produce
6 25 or more mature the cannabis sativa plants plant or to
7 possess 25 or more mature cannabis sativa such plants unless
8 production or possession has been authorized under pursuant to
9 the provisions of Section 11 or 15.2 of the Act or under the
10 Cannabis Legalization Equity Act. Any person who violates this
11 Section with respect to production or possession of:

12 (a) (Blank). ~~Not more than 5 plants is guilty of a Class A~~
13 ~~misdemeanor.~~

14 (b) (Blank). ~~More than 5, but not more than 20 plants, is~~
15 ~~guilty of a Class 4 felony.~~

16 (c) 25 or more ~~More than 20~~, but not more than 50 plants,
17 is guilty of a civil law violation punishable by a maximum fine
18 of \$1,000. The proceeds of the fine shall be payable to the
19 clerk of the circuit court. Within 30 days after the deposit of
20 the fine, the clerk shall distribute the proceeds of the fine
21 as follows: Class 3 felony

22 (1) \$10 of the fine to the circuit clerk and \$10 of the
23 fine to the law enforcement agency that issued the
24 citation; the proceeds of each \$10 fine distributed to the
25 circuit clerk and each \$10 fine distributed to the law

HB0902

- 186 -

LRB101 08006 RLC 53065 b

1 enforcement agency that issued the citation for the
2 violation shall be used to defer the cost of automatic
3 expungements under paragraph (2.5) of subsection (a) of
4 Section 5.2 of the Criminal Identification Act;

5 (2) \$15 to the county to fund drug addiction services;

6 (3) \$10 to the Office of the State's Attorneys
7 Appellate Prosecutor for use in training programs;

8 (4) \$10 to the State's Attorney; and

9 (5) any remainder of the fine to the law enforcement
10

agency that issued the citation for the violation.

11 With respect to funds designated for the Department of
12 State Police, the moneys shall be remitted by the circuit
13 court clerk to the Department of State Police within one
14 month after receipt for deposit into the State Police
15 Operations Assistance Fund. With respect to funds
16 designated for the Department of Natural Resources, the
17 Department of Natural Resources shall deposit the moneys
18 into the Conservation Police Operations Assistance Fund.

19 (d) More than 50, but not more than 200 plants, is guilty
20 of a Class A misdemeanor ~~2-felony~~ for which a fine not to
21 exceed \$100,000 may be imposed and for which liability for the
22 cost of conducting the investigation and eradicating such
23 plants may be assessed. Compensation for expenses incurred in
24 the enforcement of this provision shall be transmitted to and
25 deposited in the treasurer's office at the level of government
26 represented by the Illinois law enforcement agency whose

HB0902

- 187 -

LRB101 08006 RLC 53065 b

1 officers or employees conducted the investigation or caused the
2 arrest or arrests leading to the prosecution, to be
3 subsequently made available to that law enforcement agency as
4 expendable receipts for use in the enforcement of laws
5 regulating controlled substances and cannabis. If such seizure
6 was made by a combination of law enforcement personnel
7 representing different levels of government, the court levying
8 the assessment shall determine the allocation of such
9 assessment. The proceeds of assessment awarded to the State
10 treasury shall be deposited in a special fund known as the Drug
11 Traffic Prevention Fund.

12 (e) More than 200 plants is guilty of a Class 4 ~~±~~ felony
13 for which a fine not to exceed \$100,000 may be imposed and for
14 which liability for the cost of conducting the investigation
15 and eradicating such plants may be assessed. Compensation for
16 expenses incurred in the enforcement of this provision shall be
17 transmitted to and deposited in the treasurer's office at the
18 level of government represented by the Illinois law enforcement

19 agency whose officers or employees conducted the investigation
20 or caused the arrest or arrests leading to the prosecution, to
21 be subsequently made available to that law enforcement agency
22 as expendable receipts for use in the enforcement of laws
23 regulating controlled substances and cannabis. If such seizure
24 was made by a combination of law enforcement personnel
25 representing different levels of government, the court levying
26 the assessment shall determine the allocation of such

HB0902

- 188 -

LRB101 08006 RLC 53065 b

1 assessment. The proceeds of assessment awarded to the State
2 treasury shall be deposited in a special fund known as the Drug
3 Traffic Prevention Fund.

4 (Source: P.A. 98-1072, eff. 1-1-15.)

5 (720 ILCS 550/9) (from Ch. 56 1/2, par. 709)

6 Sec. 9. (a) Any person who engages in a calculated criminal
7 cannabis conspiracy, as defined in subsection (b), is guilty of
8 a Class 3 felony, and fined not more than \$200,000 and shall be
9 subject to the forfeitures prescribed in subsection (c); except
10 that, if any person engages in such offense after one or more
11 prior convictions under this Section, ~~Section 4 (d)~~, Section 5
12 (d) or ~~7~~ Section 8 (d) or any law of the United States or of any
13 State relating to cannabis, or controlled substances as defined
14 in the Illinois Controlled Substances Act, in addition to the
15 fine and forfeiture authorized above, he shall be guilty of a
16 Class 1 felony for which an offender may not be sentenced to
17 death.

18 (b) For purposes of this section, a person engages in a
19 calculated criminal cannabis conspiracy when:

20 (1) he violates Section ~~4 (d), 4 (e)~~, 5 (d), 5 (e), 8 (c) or
21 8 (d) of this Act; and

22 (2) such violation is a part of a conspiracy undertaken or
23 carried on with 2 or more other persons; and

24 (3) he obtains anything of value greater than \$500 from, or
25 organizes, directs or finances such violation or conspiracy.

1 (c) Any person who is convicted under this Section of
2 engaging in a calculated criminal cannabis conspiracy shall
3 forfeit to the State of Illinois:

4 (1) the receipts obtained by him in such conspiracy; and

5 (2) any of his interests in, claims against, receipts from,
6 or property or rights of any kind affording a source of
7 influence over, such conspiracy.

8 (d) The circuit court may enter such injunctions,
9 restraining orders, directions, or prohibitions, or take such
10 other actions, including the acceptance of satisfactory
11 performance bonds, in connection with any property, claim,
12 receipt, right or other interest subject to forfeiture under
13 this Section, as it deems proper.

14 (Source: P.A. 84-1233.)

15 (720 ILCS 550/10) (from Ch. 56 1/2, par. 710)

16 Sec. 10. (a) Whenever any person who has not previously
17 been convicted of any felony offense under this Act or any law
18 of the United States or of any State relating to cannabis, or
19 controlled substances as defined in the Illinois Controlled
20 Substances Act, pleads guilty to or is found guilty of
21 violating Sections ~~4(a), 4(b), 4(c)~~, 5(a), 5(b), 5(c) or 8 of
22 this Act, the court may, without entering a judgment and with
23 the consent of such person, sentence him to probation.

24 (b) When a person is placed on probation, the court shall
25 enter an order specifying a period of probation of 24 months,

1 and shall defer further proceedings in the case until the
2 conclusion of the period or until the filing of a petition
3 alleging violation of a term or condition of probation.

4 (c) The conditions of probation shall be that the person:

5 (1) not violate any criminal statute of any jurisdiction; (2)
6 refrain from possession of a firearm or other dangerous weapon;
7 (3) submit to periodic drug testing at a time and in a manner

8 as ordered by the court, but no less than 3 times during the
9 period of the probation, with the cost of the testing to be
10 paid by the probationer; and (4) perform no less than 30 hours
11 of community service, provided community service is available
12 in the jurisdiction and is funded and approved by the county
13 board. The court may give credit toward the fulfillment of
14 community service hours for participation in activities and
15 treatment as determined by court services.

16 (d) The court may, in addition to other conditions, require
17 that the person:

18 (1) make a report to and appear in person before or
19 participate with the court or such courts, person, or
20 social service agency as directed by the court in the order
21 of probation;

22 (2) pay a fine and costs;

23 (3) work or pursue a course of study or vocational
24 training;

25 (4) undergo medical or psychiatric treatment; or
26 treatment for drug addiction or alcoholism;

HB0902

- 191 -

LRB101 08006 RLC 53065 b

1 (5) attend or reside in a facility established for the
2 instruction or residence of defendants on probation;

3 (6) support his dependents;

4 (7) refrain from possessing a firearm or other
5 dangerous weapon;

6 (7-5) refrain from having in his or her body the
7 presence of any illicit drug prohibited by the Cannabis
8 Control Act, the Illinois Controlled Substances Act, or the
9 Methamphetamine Control and Community Protection Act,
10 unless prescribed by a physician, and submit samples of his
11 or her blood or urine or both for tests to determine the
12 presence of any illicit drug;

13 (8) and in addition, if a minor:

14 (i) reside with his parents or in a foster home;

15 (ii) attend school;

16 (iii) attend a non-residential program for youth;

17 (iv) contribute to his own support at home or in a
18 foster home.

19 (e) Upon violation of a term or condition of probation, the
20 court may enter a judgment on its original finding of guilt and
21 proceed as otherwise provided.

22 (f) Upon fulfillment of the terms and conditions of
23 probation, the court shall discharge such person and dismiss
24 the proceedings against him.

25 (g) A disposition of probation is considered to be a
26 conviction for the purposes of imposing the conditions of

HB0902

- 192 -

LRB101 08006 RLC 53065 b

1 probation and for appeal, however, discharge and dismissal
2 under this Section is not a conviction for purposes of
3 disqualification or disabilities imposed by law upon
4 conviction of a crime (including the additional penalty imposed
5 for subsequent offenses under Section 4(c), 4(d), 5(c) or 5(d)
6 of this Act).

7 (h) A person may not have more than one discharge and
8 dismissal under this Section within a 4-year period.

9 (i) If a person is convicted of an offense under this Act,
10 the Illinois Controlled Substances Act, or the Methamphetamine
11 Control and Community Protection Act within 5 years subsequent
12 to a discharge and dismissal under this Section, the discharge
13 and dismissal under this Section shall be admissible in the
14 sentencing proceeding for that conviction as a factor in
15 aggravation.

16 (j) Notwithstanding subsection (a), before a person is
17 sentenced to probation under this Section, the court may refer
18 the person to the drug court established in that judicial
19 circuit pursuant to Section 15 of the Drug Court Treatment Act.
20 The drug court team shall evaluate the person's likelihood of
21 successfully completing a sentence of probation under this
22 Section and shall report the results of its evaluation to the
23 court. If the drug court team finds that the person suffers
24 from a substance abuse problem that makes him or her
25 substantially unlikely to successfully complete a sentence of

1 forth its findings in the form of a written order, and the
2 person shall not be sentenced to probation under this Section,
3 but shall be considered for the drug court program.

4 (Source: P.A. 99-480, eff. 9-9-15; 100-3, eff. 1-1-18; 100-575,
5 eff. 1-8-18.)

6 (720 ILCS 550/12) (from Ch. 56 1/2, par. 712)
7 Sec. 12. Forfeiture.

8 (a) The following are subject to forfeiture:

9 (1) (blank);

10 (2) all raw materials, products, and equipment of any
11 kind which are produced, delivered, or possessed in
12 connection with any substance containing cannabis in a
13 felony violation of this Act;

14 (3) all conveyances, including aircraft, vehicles, or
15 vessels, which are used, or intended for use, to transport,
16 or in any manner to facilitate the transportation, sale,
17 receipt, possession, or concealment of any substance
18 containing cannabis or property described in paragraph (2)
19 of this subsection (a) that constitutes a felony violation
20 of the Act, but:

21 (i) no conveyance used by any person as a common
22 carrier in the transaction of business as a common
23 carrier is subject to forfeiture under this Section
24 unless it appears that the owner or other person in
25 charge of the conveyance is a consenting party or privy

1 to the violation;

2 (ii) no conveyance is subject to forfeiture under
3 this Section by reason of any act or omission which the
4 owner proves to have been committed or omitted without

5 his or her knowledge or consent;

6 (iii) a forfeiture of a conveyance encumbered by a
7 bona fide security interest is subject to the interest
8 of the secured party if he or she neither had knowledge
9 of nor consented to the act or omission;

10 (4) all money, things of value, books, records, and
11 research products and materials including formulas,
12 microfilm, tapes, and data which are used, or intended for
13 use, in a felony violation of this Act;

14 (5) everything of value furnished or intended to be
15 furnished by any person in exchange for a substance in
16 violation of this Act, all proceeds traceable to such an
17 exchange, and all moneys, negotiable instruments, and
18 securities used, or intended to be used, to commit or in
19 any manner to facilitate any felony violation of this Act;

20 (6) all real property, including any right, title, and
21 interest including, but not limited to, any leasehold
22 interest or the beneficial interest in a land trust, in the
23 whole of any lot or tract of land and any appurtenances or
24 improvements, that is used or intended to be used to
25 facilitate the manufacture, distribution, sale, receipt,
26 or concealment of a substance containing cannabis or

1 property described in paragraph (2) of this subsection (a)
2 that constitutes a felony violation of this Act involving
3 more than 2,000 grams of a substance containing cannabis or
4 that is the proceeds of any felony violation of this Act.

5 (b) Property subject to forfeiture under this Act may be
6 seized under the Drug Asset Forfeiture Procedure Act. In the
7 event of seizure, forfeiture proceedings shall be instituted
8 under the Drug Asset Forfeiture Procedure Act.

9 (c) Forfeiture under this Act is subject to an 8th
10 Amendment to the United States Constitution disproportionate
11 penalties analysis as provided under Section 9.5 of the Drug
12 Asset Forfeiture Procedure Act.

13 (c-1) With regard to possession of cannabis offenses only,
14 a sum of currency with a value of less than \$500 shall not be
15 subject to forfeiture under this Act. For all other offenses
16 under this Act, a sum of currency with a value of less than
17 \$100 shall not be subject to forfeiture under this Act. In
18 seizures of currency in excess of these amounts, this Section
19 shall not create an exemption for these amounts.

20 (d) (Blank).

21 (e) (Blank).

22 (f) (Blank).

23 (g) (Blank).

24 (h) Contraband, including cannabis possessed without
25 authorization under State or federal law, is not subject to
26 forfeiture. No property right exists in contraband. Contraband

HB0902

- 196 -

LRB101 08006 RLC 53065 b

1 is subject to seizure and shall be disposed of according to
2 State law.

3 (i) The changes made to this Section by Public Act 100-512
4 and Public Act 100-699 only apply to property seized on and
5 after July 1, 2018.

6 (j) The changes made to this Section by Public Act 100-699
7 are subject to Section 4 of the Statute on Statutes.

8 (k) Items described in paragraphs (1) through (6) of
9 subsection (a) of this Section used, possessed, or derived from
10 activities that are in compliance with the Cannabis
11 Legalization Equity Act are not subject to forfeiture.

12 (Source: P.A. 99-686, eff. 7-29-16; 100-512, eff. 7-1-18;
13 100-699, eff. 8-3-18; 100-1163, eff. 12-20-18.)

14 (720 ILCS 550/16.2)

15 Sec. 16.2. Preservation of cannabis or cannabis sativa
16 plants for laboratory testing.

17 (a) Before or after the trial in a prosecution for a
18 violation of Section ~~4~~ 5, 5.1, 5.2, 8, or 9 of this Act, a law
19 enforcement agency or an agent acting on behalf of the law
20 enforcement agency must preserve, subject to a continuous chain
21 of custody, not less than 6,001 grams of any substance

22 containing cannabis and not less than 51 cannabis sativa plants
23 with respect to the offenses enumerated in this subsection (a)
24 and must maintain sufficient documentation to locate that
25 evidence. Excess quantities with respect to the offenses

HB0902

- 197 -

LRB101 08006 RLC 53065 b

1 enumerated in this subsection (a) cannot practicably be
2 retained by a law enforcement agency because of its size, bulk,
3 and physical character.

4 (b) The court may before trial transfer excess quantities
5 of any substance containing cannabis or cannabis sativa plants
6 with respect to a prosecution for any offense enumerated in
7 subsection (a) to the sheriff of the county, or may in its
8 discretion transfer such evidence to the Department of State
9 Police, for destruction after notice is given to the
10 defendant's attorney of record or to the defendant if the
11 defendant is proceeding pro se.

12 (c) After a judgment of conviction is entered and the
13 charged quantity is no longer needed for evidentiary purposes
14 with respect to a prosecution for any offense enumerated in
15 subsection (a), the court may transfer any substance containing
16 cannabis or cannabis sativa plants to the sheriff of the
17 county, or may in its discretion transfer such evidence to the
18 Department of State Police, for destruction after notice is
19 given to the defendant's attorney of record or to the defendant
20 if the defendant is proceeding pro se. No evidence shall be
21 disposed of until 30 days after the judgment is entered, and if
22 a notice of appeal is filed, no evidence shall be disposed of
23 until the mandate has been received by the circuit court from
24 the Appellate Court.

25 (Source: P.A. 94-180, eff. 7-12-05.)

HB0902

- 198 -

LRB101 08006 RLC 53065 b

1 Section 940. The Drug Paraphernalia Control Act is amended

2 by changing Sections 2, 3.5, 4, and 6 as follows:

3 (720 ILCS 600/2) (from Ch. 56 1/2, par. 2102)

4 Sec. 2. As used in this Act, unless the context otherwise
5 requires:

6 (a) ~~(Blank). The term "cannabis" shall have the meaning~~
7 ~~ascribed to it in Section 3 of the Cannabis Control Act, as if~~
8 ~~that definition were incorporated herein.~~

9 (b) The term "controlled substance" shall have the meaning
10 ascribed to it in Section 102 of the Illinois Controlled
11 Substances Act, as if that definition were incorporated herein.

12 (c) "Deliver" or "delivery" means the actual, constructive
13 or attempted transfer of possession, with or without
14 consideration, whether or not there is an agency relationship.

15 (d) "Drug paraphernalia" means all equipment, products and
16 materials of any kind, other than methamphetamine
17 manufacturing materials as defined in Section 10 of the
18 Methamphetamine Control and Community Protection Act, which
19 are intended to be used unlawfully in planting, propagating,
20 cultivating, growing, harvesting, manufacturing, compounding,
21 converting, producing, processing, preparing, testing,
22 analyzing, packaging, repackaging, storing, containing,
23 concealing, injecting, ingesting, inhaling or otherwise
24 introducing into the human body ~~cannabis or~~ a controlled
25 substance in violation of ~~the Cannabis Control Act,~~ the

1 Illinois Controlled Substances Act, or the Methamphetamine
2 Control and Community Protection Act or a synthetic drug
3 product or misbranded drug in violation of the Illinois Food,
4 Drug and Cosmetic Act. It includes, but is not limited to:

5 (1) kits intended to be used unlawfully in
6 manufacturing, compounding, converting, producing,
7 processing or preparing ~~cannabis or~~ a controlled
8 substance;

9 (2) isomerization devices intended to be used
10 unlawfully in increasing the potency of any species of
11 plant which is ~~cannabis or~~ a controlled substance;

12 (3) testing equipment intended to be used unlawfully in
13 a private home for identifying or in analyzing the
14 strength, effectiveness or purity of ~~cannabis or~~
15 controlled substances;

16 (4) diluents and adulterants intended to be used
17 unlawfully for cutting ~~cannabis or~~ a controlled substance
18 by private persons;

19 (5) objects intended to be used unlawfully in
20 ingesting, inhaling, or otherwise introducing ~~cannabis,~~
21 cocaine, ~~hashish, hashish oil,~~ or a synthetic drug product
22 or misbranded drug in violation of the Illinois Food, Drug
23 and Cosmetic Act into the human body including, where
24 applicable, the following items:

25 (A) water pipes;

26 (B) carburetion tubes and devices;

HB0902

- 200 -

LRB101 08006 RLC 53065 b

1 (C) smoking and carburetion masks;

2 (D) miniature cocaine spoons and cocaine vials;

3 (E) carburetor pipes;

4 (F) electric pipes;

5 (G) air-driven pipes;

6 (H) chillums;

7 (I) bongs;

8 (J) ice pipes or chillers;

9 (6) any item whose purpose, as announced or described
10 by the seller, is for use in violation of this Act.

11 (Source: P.A. 97-872, eff. 7-31-12.)

12 (720 ILCS 600/3.5)

13 Sec. 3.5. Possession of drug paraphernalia.

14 (a) A person who knowingly possesses an item of drug
15 paraphernalia with the intent to use it in ingesting, inhaling,
16 or otherwise introducing ~~cannabis or~~ a controlled substance
17 into the human body, or in preparing ~~cannabis or~~ a controlled
18 substance for that use, is guilty of a Class A misdemeanor for
19 which the court shall impose a minimum fine of \$750 in addition

20 to any other penalty prescribed for a Class A misdemeanor. This
21 subsection (a) does not apply to a person who is legally
22 authorized to possess hypodermic syringes or needles under the
23 Hypodermic Syringes and Needles Act.

24 (b) In determining intent under subsection (a), the trier
25 of fact may take into consideration the proximity of the

HB0902

- 201 -

LRB101 08006 RLC 53065 b

1 cannabis or controlled substances to drug paraphernalia or the
2 presence of ~~cannabis~~ or a controlled substance on the drug
3 paraphernalia.

4 (c) ~~(Blank). If a person violates subsection (a) of Section~~
5 ~~4 of the Cannabis Control Act, the penalty for possession of~~
6 ~~any drug paraphernalia seized during the violation for that~~
7 ~~offense shall be a civil law violation punishable by a minimum~~
8 ~~fine of \$100 and a maximum fine of \$200. The proceeds of the~~
9 ~~fine shall be payable to the clerk of the circuit court. Within~~
10 ~~30 days after the deposit of the fine, the clerk shall~~
11 ~~distribute the proceeds of the fine as follows:~~

12 ~~(1) \$10 of the fine to the circuit clerk and \$10 of the~~
13 ~~fine to the law enforcement agency that issued the~~
14 ~~citation; the proceeds of each \$10 fine distributed to the~~
15 ~~circuit clerk and each \$10 fine distributed to the law~~
16 ~~enforcement agency that issued the citation for the~~
17 ~~violation shall be used to defer the cost of automatic~~
18 ~~expungements under paragraph (2.5) of subsection (a) of~~
19 ~~Section 5.2 of the Criminal Identification Act;~~

20 ~~(2) \$15 to the county to fund drug addiction services;~~

21 ~~(3) \$10 to the Office of the State's Attorneys~~
22 ~~Appellate Prosecutor for use in training programs;~~

23 ~~(4) \$10 to the State's Attorney; and~~

24 ~~(5) any remainder of the fine to the law enforcement~~
25 ~~agency that issued the citation for the violation.~~

26 With respect to funds designated for the Department of

HB0902

- 202 -

LRB101 08006 RLC 53065 b

1 State Police, the moneys shall be remitted by the circuit court
2 clerk to the Department of State Police within one month after
3 receipt for deposit into the State Police Operations Assistance
4 Fund. With respect to funds designated for the Department of
5 Natural Resources, the Department of Natural Resources shall
6 deposit the moneys into the Conservation Police Operations
7 Assistance Fund.

8 (Source: P.A. 99-697, eff. 7-29-16.)

9 (720 ILCS 600/4) (from Ch. 56 1/2, par. 2104)

10 Sec. 4. Exemptions. This Act does not apply to:

11 (a) Items used in the preparation, compounding,
12 packaging, labeling, or other use of ~~cannabis~~ or a
13 controlled substance as an incident to lawful research,
14 teaching, or chemical analysis and not for sale.

15 (b) Items historically and customarily used in
16 connection with the planting, propagating, cultivating,
17 growing, harvesting, manufacturing, compounding,
18 converting, producing, processing, preparing, testing,
19 analyzing, packaging, repackaging, storing, containing,
20 concealing, injecting, ingesting, or inhaling of tobacco
21 or any other lawful substance.

22 Items exempt under this subsection include, but are not
23 limited to, garden hoes, rakes, sickles, baggies, tobacco
24 pipes, and cigarette-rolling papers.

25 (c) Items listed in Section 2 of this Act which are

1 used for decorative purposes, when such items have been
2 rendered completely inoperable or incapable of being used
3 for any illicit purpose prohibited by this Act.

4 (d) A person who is legally authorized to possess
5 hypodermic syringes or needles under the Hypodermic
6 Syringes and Needles Act.

7 In determining whether or not a particular item is exempt under
8 this Section, the trier of fact should consider, in addition to

9 all other logically relevant factors, the following:

10 (1) the general, usual, customary, and historical use
11 to which the item involved has been put;

12 (2) expert evidence concerning the ordinary or
13 customary use of the item and the effect of any peculiarity
14 in the design or engineering of the device upon its
15 functioning;

16 (3) any written instructions accompanying the delivery
17 of the item concerning the purposes or uses to which the
18 item can or may be put;

19 (4) any oral instructions provided by the seller of the
20 item at the time and place of sale or commercial delivery;

21 (5) any national or local advertising concerning the
22 design, purpose or use of the item involved, and the entire
23 context in which such advertising occurs;

24 (6) the manner, place and circumstances in which the
25 item was displayed for sale, as well as any item or items
26 displayed for sale or otherwise exhibited upon the premises

HB0902

- 204 -

LRB101 08006 RLC 53065 b

1 where the sale was made;

2 (7) whether the owner or anyone in control of the
3 object is a legitimate supplier of like or related items to
4 the community, such as a licensed distributor or dealer of
5 tobacco products;

6 (8) the existence and scope of legitimate uses for the
7 object in the community.

8 (Source: P.A. 95-331, eff. 8-21-07.)

9 (720 ILCS 600/6) (from Ch. 56 1/2, par. 2106)

10 Sec. 6. This Act is intended to be used solely for the
11 suppression of the commercial traffic in and possession of
12 items that, within the context of the sale or offering for
13 sale, or possession, are clearly and beyond a reasonable doubt
14 intended for the illegal and unlawful use of ~~cannabis or~~
15 controlled substances. To this end all reasonable and
16 common-sense inferences shall be drawn in favor of the

17 legitimacy of any transaction or item.

18 (Source: P.A. 93-526, eff. 8-12-03.)

19 Section 945. The Narcotics Profit Forfeiture Act is amended
20 by changing Section 3 as follows:

21 (725 ILCS 175/3) (from Ch. 56 1/2, par. 1653)

22 Sec. 3. Definitions.

23 (a) "Narcotics activity" means:

HB0902

- 205 -

LRB101 08006 RLC 53065 b

1 1. Any conduct punishable as a felony under the
2 Cannabis Control Act or the Illinois Controlled Substances
3 Act, or

4 2. Any conduct punishable, by imprisonment for more
5 than one year, as an offense against the law of the United
6 States or any State, concerning narcotics, controlled
7 substances, dangerous drugs, or any substance or things
8 scheduled or listed under the Cannabis Control Act, the
9 Illinois Controlled Substances Act, or the Methamphetamine
10 Control and Community Protection Act.

11 "Narcotics activity" does not include conduct that is
12 lawful under the Cannabis Legalization Equity Act.

13 (b) "Pattern of narcotics activity" means 2 or more acts of
14 narcotics activity of which at least 2 such acts were committed
15 within 5 years of each other. At least one of those acts of
16 narcotics activity must have been committed after the effective
17 date of this Act and at least one of such acts shall be or shall
18 have been punishable as a Class X, Class 1 or Class 2 felony.

19 (c) "Person" includes any individual or entity capable of
20 holding a legal or beneficial interest in property.

21 (d) "Enterprise" includes any individual, partnership,
22 corporation, association, or other entity, or group of
23 individuals associated in fact, although not a legal entity.

24 (Source: P.A. 94-556, eff. 9-11-05.)

25 Section 950. The Code of Criminal Procedure of 1963 is

1 amended by adding Section 111-3.1 as follows:

2 (725 ILCS 5/111-3.1 new)

3 Sec. 111-3.1. Uniform Civil Law Citation.

4 (a) As used in this Section, "local authorities" means a
5 duly organized State, county, or municipal peace unit or police
6 force.

7 (b) For a violation of Section 20 or 30 of the Cannabis
8 Legalization Equity Act or subsection (a) of Section 4, Section
9 4.1, or subsection (c) of Section 8 of the Cannabis Control
10 Act, the local authorities having jurisdiction shall, except as
11 otherwise provided in this Section, charge the violation by a
12 Uniform Civil Law Citation. A copy of the Uniform Civil Law
13 Citation shall be sent to the circuit court clerk, within 30
14 days, but in no event later than 90 days after the violation.
15 The Uniform Civil Law Citation shall include:

16 (1) the name and address of the defendant;

17 (2) the violation charged;

18 (3) the municipality where the violation occurred or if
19 in an unincorporated area the county where the violation
20 occurred;

21 (4) the statutory fine for the offense;

22 (5) the date by which the fine must be paid or plea of
23 not guilty entered by the defendant;

24 (6) a warning that failure to pay the fine or enter a
25 plea of not guilty by the date set in the Citation, may

1 result in an order of contempt by the court and shall
2 result in issuance of a warrant of arrest for the
3 defendant; and

4 (7) a notice that the person may plead guilty and pay
5 the fine to the circuit court clerk or enter a plea of not
6 guilty to the circuit court clerk and request a trial.

7 (c) The peace officer issuing the Citation or the clerk of
8 the circuit court shall give the accused a first appearance
9 date 30 to 45 days from the date of the violation whenever
10 practicable. The accused shall pay \$120 per violation on or
11 before the appearance date set by the officer or the clerk of
12 the circuit court or to appear in court.

13 (d) When issuing a Uniform Civil Law Citation, the officer
14 shall also issue a written notice to the accused in
15 substantially the following form:

16 CONTEST THIS VIOLATION

17 If you intend to contest this violation or if you
18 intend to demand a trial, so notify the clerk of the
19 circuit court at least 10 work days before the date set for
20 your appearance. Note that appearing in court may result in
21 additional fines and fees. A new appearance date will be
22 set, and you will be notified of the time and place of your
23 appearance. When you are notified of your new appearance
24 date, you should come to court prepared for trial and bring
25 any witnesses you may have. You will also have the
26 opportunity to demand a trial by jury, which would occur at

HB0902

- 208 -

LRB101 08006 RLC 53065 b

1 a later date. If you demand a trial by jury, additional
2 fees may apply.

3 Upon timely receipt of notice that the accused intends to
4 contest the violation, the clerk shall set a new appearance
5 date not less than 7 days nor more than 60 days after the
6 original appearance date set by the peace officer or the clerk
7 of the circuit court and shall notify all parties of the new
8 date and the time for appearance. If the accused demands a
9 trial by jury, the trial shall be scheduled within a reasonable
10 period. A jury fee may be applicable, as directed by the court.

11 (e) All civil law violations may be satisfied without a
12 court appearance by admitting to the violation, with the
13 exception of electronic admissions unless authorized by the
14 Supreme Court, and payment of \$120, inclusive of all penalties,
15 fees, and costs.

16 (f) No other fines, fees, penalties, or costs shall be
17 assessed in any case that is disposed of on an admission to the
18 violation without a court appearance. The fine shall be
19 disbursed by the clerk under law. Uniform Civil Law
20 Citations—Processing Uniform Civil Law Citation forms shall be
21 in a form, which may from time to time be approved by the
22 Conference of Chief Circuit Judges and filed with this court.
23 The uniform form shall be adapted for use by municipalities.
24 The law enforcement officer shall complete the form or Citation
25 and, within 48 hours after the issuance, shall transmit the
26 portions entitled "Complaint" and "Disposition Report", either

HB0902

- 209 -

LRB101 08006 RLC 53065 b

1 in person or by mail, to the clerk of the circuit court of the
2 county in which the violation occurred. Each Uniform Civil Law
3 Citation form shall, upon receipt by the clerk, be assigned a
4 separate case number, numbered chronologically, including
5 multiple citations issued to the same accused for more than one
6 violation arising out of the same occurrence. A final
7 disposition noted on the reverse side of the "Complaint" shall
8 be evidence of the judgment in the case. Upon final disposition
9 of each case, the clerk shall execute the "Disposition Report"
10 and promptly forward it to the law enforcement agency that
11 issued the Citation. This Section does not prohibit the use of
12 electronic or mechanical systems of record keeping,
13 transmitting, or reporting.

14 (g) In all civil law violation cases in which a defendant
15 is issued a Uniform Civil Law Citation as provided under this
16 Section and fails to appear on the date set for appearance, or
17 on any date to which the case may be continued, the court may
18 enter a default judgment and in so doing shall assess a fine,
19 inclusive of costs, as prescribed in Supreme Court Rule.
20 Payment received for the fine assessed following the entry of a
21 default judgment shall be disbursed by the clerk under Supreme
22 Court Rule.

23 (h) A person may not be arrested for an offense subject to
24 charging by a Uniform Civil Law Citation, except as provided in
25

this subsection. A person may be arrested if:

26

(1) he or she is in possession of an identification

HB0902

- 210 -

LRB101 08006 RLC 53065 b

1 card, license, or other form of identification issued by
2 the federal government, this State or any other state,
3 municipality, or college or university, and fails to
4 produce the identification upon request of a peace officer
5 who informs the person that he or she has been found in
6 possession of what appears to the officer to be a violation
7 of Section 20 or 30 of the Cannabis Legalization Equity Act
8 or Section 4.1 of the Cannabis Control Act;

9 (2) he or she is without any form of identification and
10 fails or refuses to truthfully provide his or her name,
11 address, and date of birth to a peace officer who has
12 informed the person that the officer intends to issue the
13 person with a Uniform Civil Law Citation for a violation of
14 Section 20 or 30 of the Cannabis Legalization Equity Act or
15 Section 4.1 of the Cannabis Control Act; or

16 (3) he or she fails to pay the fine or enter a plea of
17 not guilty within the time period set in the Uniform Civil
18 Law Citation.

19 (i) The amount of bail for the offense charged by a Uniform
20 Civil Law Citation shall be the amount as the Supreme Court may
21 establish by rule.

22 (j) The copy of the Uniform Civil Law Citation filed with
23 the circuit court constitutes a complaint to which the
24 defendant may plead, unless he or she specifically requests
25 that a verified complaint be filed. A Uniform Civil Law
26 Citation may be satisfied without a court appearance by a

HB0902

- 211 -

LRB101 08006 RLC 53065 b

1 written plea of guilty, and payment of fines and costs equal to
2 \$100, and if a failure to appear to answer the charge has been
3

4 entered, in which case the fine and costs shall be equal to the
5 \$100 fine plus \$35. The balance remaining after deducting the
6 amount required by Section 27.1a or 27.2a of the Clerks of
7 Courts Act shall be distributed as follows:

8 (1) 44.5% shall be disbursed to the entity authorized
9 to receive the fine imposed in the case;

10 (2) 16.825% shall be disbursed to the State Treasurer;
11 and

12 (3) 38.675% shall be disbursed to the county's general
13 corporate fund.

14 (k) Except as otherwise provided in this Section, no other
15 finer, fees, penalties, or costs shall be assessed on a
16 conviction or plea of guilty to a Uniform Civil Law Citation.

17 (l) A defendant who fails to pay the fine or enter a plea
18 of not guilty within the time period set in the Uniform Civil
19 Law Citation is guilty of a civil law violation as provided in
20 the offense charged in the Citation.

21 (m) Nothing contained in this Section prohibits a unit of
22 local government from enacting an ordinance or bylaw regulating
23 or prohibiting the consumption of cannabis in public places and
24 providing a civil law violation for additional penalties for
25 the public use of cannabis, provided that the penalties are not
26 greater than those for the public consumption of alcohol.

(n) No issuance of a Uniform Civil Law Citation,

HB0902

- 212 -

LRB101 08006 RLC 53065 b

1 conviction, or entry of a plea of guilty to a Uniform Civil Law
2 Citation shall be considered a criminal offense or a violation
3 of parole, mandatory supervised release, probation,
4 conditional discharge, or supervision.

5 (o) No Uniform Civil Law Citation for a violation of
6 Section 20 or 30 of the Cannabis Legalization Equity Act or
7 subsection (a) of Section 4, Section 4.1, or subsection (c) of
8 Section 8 of the Cannabis Control Act shall be maintained in
9 any criminal record or database.

10 Section 955. The Unified Code of Corrections is amended by
11 changing Sections 3-3-13, 5-1-15, 5-9-1.1 and 5-9-1.4 and by

12 adding Sections 5-1-18.1-1 and 5-4.5-83 as follows:

13 (730 ILCS 5/3-3-13) (from Ch. 38, par. 1003-3-13)

14 Sec. 3-3-13. Procedure for executive clemency; release
15 from the Department of Corrections for cannabis violations
16 ~~Executive Clemency.~~

17 (a) Petitions seeking pardon, commutation, or reprieve
18 shall be addressed to the Governor and filed with the Prisoner
19 Review Board. The petition shall be in writing and signed by
20 the person under conviction or by a person on his behalf. It
21 shall contain a brief history of the case, the reasons for
22 seeking executive clemency, and other relevant information the
23 Board may require.

24 (a-5) After a petition has been denied by the Governor, the

HB0902

- 213 -

LRB101 08006 RLC 53065 b

1 Board may not accept a repeat petition for executive clemency
2 for the same person until one full year has elapsed from the
3 date of the denial. The Chairman of the Board may waive the
4 one-year requirement if the petitioner offers in writing new
5 information that was unavailable to the petitioner at the time
6 of the filing of the prior petition and which the Chairman
7 determines to be significant. The Chairman also may waive the
8 one-year waiting period if the petitioner can show that a
9 change in circumstances of a compelling humanitarian nature has
10 arisen since the denial of the prior petition.

11 (b) Notice of the proposed application shall be given by
12 the Board to the committing court and the state's attorney of
13 the county where the conviction was had.

14 (c) The Board shall, if requested and upon due notice, give
15 a hearing to each application, allowing representation by
16 counsel, if desired, after which it shall confidentially advise
17 the Governor by a written report of its recommendations which
18 shall be determined by majority vote. The Board shall meet to
19 consider such petitions no less than 4 times each year.

20 Application for executive clemency under this Section may
21 not be commenced on behalf of a person who has been sentenced
22 to death without the written consent of the defendant, unless

23 the defendant, because of a mental or physical condition, is
24 incapable of asserting his or her own claim.

25 (d) The Governor shall decide each application and
26 communicate his decision to the Board which shall notify the

HB0902

- 214 -

LRB101 08006 RLC 53065 b

1 petitioner.

2 In the event a petitioner who has been convicted of a Class
3 X felony is granted a release, after the Governor has
4 communicated such decision to the Board, the Board shall give
5 written notice to the Sheriff of the county from which the
6 offender was sentenced if such sheriff has requested that such
7 notice be given on a continuing basis. In cases where arrest of
8 the offender or the commission of the offense took place in any
9 municipality with a population of more than 10,000 persons, the
10 Board shall also give written notice to the proper law
11 enforcement agency for said municipality which has requested
12 notice on a continuing basis.

13 (d-5) If the petitioner seeks release from a Department of
14 Corrections institution or facility for a felony conviction of
15 the Cannabis Control Act, the petitioner may file an expedited
16 petition with the Prisoner Review Board. Notice of the proposed
17 application shall be given by the Board to the committing court
18 and the State's Attorney of the county where the conviction was
19 had. The Board shall decide the petition within 30 days from
20 the date of filing of the petition. If the Board, by a majority
21 vote of its members, decides that the cannabis violation did
22 not occur during the course of a crime of violence as defined
23 in Section 2 of the Crime Victims Compensation Act and that
24 public safety is not jeopardized by the release of the
25 petitioner, it shall present its recommendation to release the
26 petitioner to the Governor. If the Governor denies the

HB0902

- 215 -

LRB101 08006 RLC 53065 b

1 recommendation of the Board to release the petitioner or fails

2 to grant the petition for executive clemency within 60 days
3 after the Governor is notified by the Board of its decision,
4 the petitioner may appeal that decision of the Governor to the
5 circuit court of the circuit where the petitioner was convicted
6 of the cannabis violation which shall hear the matter. If the
7 court determines that in the interest of justice the petitioner
8 should be released from a Department of Corrections institution
9 or facility, it shall order the release of the petitioner for
10 the cannabis violation unless the petitioner is serving
11 sentence for a non-cannabis violation.

12 (e) Nothing in this Section shall be construed to limit the
13 power of the Governor under the constitution to grant a
14 reprieve, commutation of sentence, or pardon.
15 (Source: P.A. 89-112, eff. 7-7-95; 89-684, eff. 6-1-97.)

16 (730 ILCS 5/5-1-15) (from Ch. 38, par. 1005-1-15)
17 Sec. 5-1-15. Offense.

18 "Offense" means conduct for which a sentence to a term of
19 imprisonment or to a fine is provided by any law of this State
20 or by any law, local law or ordinance of a political
21 subdivision of this State, or by any order, rule or regulation
22 of any governmental instrumentality authorized by law to adopt
23 the same. "Offense" does not include a civil law violation of
24 the Cannabis Legalization Equity Act, the Cannabis Control Act,
25 or Section 111-3.1 of the Code of Criminal Procedure of 1963 or

HB0902

- 216 -

LRB101 08006 RLC 53065 b

1 any criminal violation that would no longer be an offense under
2 this amendatory Act of the 101st General Assembly of the 101st
3 General Assembly and any criminal violation committed by a
4 person under 21 years of age who if he or she were 21 years of
5 age or older would not be in violation of law as result of this
6 amendatory Act of the 101st General Assembly of the 101st
7 General Assembly.

8 (Source: P.A. 77-2097.)

9 (730 ILCS 5/5-9-1.1) (from Ch. 38, par. 1005-9-1.1)

10 (Text of Section from P.A. 94-550, 96-132, 96-402, 96-1234,

(Section scheduled to be repealed on July 1, 2019)

Sec. 5-9-1.1. Drug related offenses.

(a) Except for a conviction or plea of guilty to a Uniform Civil Law Citation, when ~~when~~ a person has been adjudged guilty of a drug related offense involving possession or delivery of cannabis or possession or delivery of a controlled substance, other than methamphetamine, as defined in the Cannabis Control Act, as amended, or the Illinois Controlled Substances Act, as amended, in addition to any other penalty imposed, a fine shall be levied by the court at not less than the full street value of the cannabis or controlled substances seized.

"Street value" shall be determined by the court on the basis of testimony of law enforcement personnel and the defendant as to the amount seized and such testimony as may be

required by the court as to the current street value of the cannabis or controlled substance seized.

(b) In addition to any penalty imposed under subsection (a) of this Section, a fine of \$100 shall be levied by the court, the proceeds of which shall be collected by the Circuit Clerk and remitted to the State Treasurer under Section 27.6 of the Clerks of Courts Act for deposit into the Trauma Center Fund for distribution as provided under Section 3.225 of the Emergency Medical Services (EMS) Systems Act.

(c) In addition to any penalty imposed under subsection (a) of this Section, a fee of \$5 shall be assessed by the court, the proceeds of which shall be collected by the Circuit Clerk and remitted to the State Treasurer under Section 27.6 of the Clerks of Courts Act for deposit into the Spinal Cord Injury Paralysis Cure Research Trust Fund. This additional fee of \$5 shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing.

(d) Blank).

(e) In addition to any penalty imposed under subsection (a)

22 of this Section, a \$25 assessment shall be assessed by the
23 court, the proceeds of which shall be collected by the Circuit
24 Clerk and remitted to the State Treasurer for deposit into the
25 Criminal Justice Information Projects Fund. The moneys
26 deposited into the Criminal Justice Information Projects Fund
under this Section shall be appropriated to and administered by

HB0902

- 218 -

LRB101 08006 RLC 53065 b

1 the Illinois Criminal Justice Information Authority for
2 distribution to fund Department of State Police drug task
3 forces and Metropolitan Enforcement Groups by dividing the
4 funds equally by the total number of Department of State Police
5 drug task forces and Illinois Metropolitan Enforcement Groups.

6 (f) In addition to any penalty imposed under subsection (a)
7 of this Section, a \$40 assessment shall be assessed by the
8 court, the proceeds of which shall be collected by the Circuit
9 Clerk. Of the collected proceeds, (i) 90% shall be remitted to
10 the State Treasurer for deposit into the Prescription Pill and
11 Drug Disposal Fund; (ii) 5% shall be remitted for deposit into
12 the Criminal Justice Information Projects Fund, for use by the
13 Illinois Criminal Justice Information Authority for the costs
14 associated with making grants from the Prescription Pill and
15 Drug Disposal Fund; and (iii) the Circuit Clerk shall retain 5%
16 for deposit into the Circuit Court Clerk Operation and
17 Administrative Fund for the costs associated with
18 administering this subsection.

19 (Source: P.A. 98-537, eff. 8-23-13; 99-480, eff. 9-9-15;
20 100-987, Article 900, Section 900-5, eff. 8-20-18. Repealed by
21 P.A. 100-987, Article 905, Section 905-93, eff. 7-1-19.)

22 (Text of Section from P.A. 94-556, 96-132, 96-402, 96-1234,
23 97-545, 98-537, 99-480, and 100-987)

24 (Section scheduled to be repealed on January 1, 2021)
25 Sec. 5-9-1.1. Drug related offenses.

HB0902

- 219 -

LRB101 08006 RLC 53065 b

1 (a) Except for a conviction or plea of guilty to a Uniform
2 Civil Law Citation, when ~~When~~ a person has been adjudged guilty
3 of a drug related offense involving possession or delivery of
4 cannabis or possession or delivery of a controlled substance as
5 defined in the Cannabis Control Act, the Illinois Controlled
6 Substances Act, or the Methamphetamine Control and Community
7 Protection Act, in addition to any other penalty imposed, a
8 fine shall be levied by the court at not less than the full
9 street value of the cannabis or controlled substances seized.

10 "Street value" shall be determined by the court on the
11 basis of testimony of law enforcement personnel and the
12 defendant as to the amount seized and such testimony as may be
13 required by the court as to the current street value of the
14 cannabis or controlled substance seized.

15 (b) In addition to any penalty imposed under subsection (a)
16 of this Section, a fine of \$100 shall be levied by the court,
17 the proceeds of which shall be collected by the Circuit Clerk
18 and remitted to the State Treasurer under Section 27.6 of the
19 Clerks of Courts Act for deposit into the Trauma Center Fund
20 for distribution as provided under Section 3.225 of the
21 Emergency Medical Services (EMS) Systems Act.

22 (c) In addition to any penalty imposed under subsection (a)
23 of this Section, a fee of \$5 shall be assessed by the court,
24 the proceeds of which shall be collected by the Circuit Clerk
25 and remitted to the State Treasurer under Section 27.6 of the
26 Clerks of Courts Act for deposit into the Spinal Cord Injury

1 Paralysis Cure Research Trust Fund. This additional fee of \$5
2 shall not be considered a part of the fine for purposes of any
3 reduction in the fine for time served either before or after
4 sentencing.

5 (d) (Blank).

6 (e) In addition to any penalty imposed under subsection (a)
7 of this Section, a \$25 assessment shall be assessed by the
8 court, the proceeds of which shall be collected by the Circuit
9

Clerk and remitted to the State Treasurer for deposit into the
Criminal Justice Information Projects Fund. The moneys
deposited into the Criminal Justice Information Projects Fund
under this Section shall be appropriated to and administered by
the Illinois Criminal Justice Information Authority for
distribution to fund Department of State Police drug task
forces and Metropolitan Enforcement Groups by dividing the
funds equally by the total number of Department of State Police
drug task forces and Illinois Metropolitan Enforcement Groups.

(f) In addition to any penalty imposed under subsection (a)
of this Section, a \$40 assessment shall be assessed by the
court, the proceeds of which shall be collected by the Circuit
Clerk. Of the collected proceeds, (i) 90% shall be remitted to
the State Treasurer for deposit into the Prescription Pill and
Drug Disposal Fund; (ii) 5% shall be remitted for deposit into
the Criminal Justice Information Projects Fund, for use by the
Illinois Criminal Justice Information Authority for the costs
associated with making grants from the Prescription Pill and

HB0902

- 221 -

LRB101 08006 RLC 53065 b

Drug Disposal Fund; and (iii) the Circuit Clerk shall retain 5%
for deposit into the Circuit Court Clerk Operation and
Administrative Fund for the costs associated with
administering this subsection.

(Source: 99-480, eff. 9-9-15; 100-987, Article 900, Section
900-5, eff. 8-20-18. Repealed by P.A. 100-987, Article 905,
Section 905-93, eff. 7-1-19.)

(730 ILCS 5/5-9-1.4) (from Ch. 38, par. 1005-9-1.4)

(Text of Section before amendment by P.A. 100-987)

Sec. 5-9-1.4. (a) "Crime laboratory" means any
not-for-profit laboratory registered with the Drug Enforcement
Administration of the United States Department of Justice,
substantially funded by a unit or combination of units of local
government or the State of Illinois, which regularly employs at
least one person engaged in the analysis of controlled
substances, cannabis, methamphetamine, or steroids for
criminal justice agencies in criminal matters and provides

18 testimony with respect to such examinations.

19 (b) Except for a conviction or plea of guilty to a Uniform
20 Civil Law Citation, when ~~When~~ a person has been adjudged guilty
21 of an offense in violation of the Cannabis Control Act, the
22 Illinois Controlled Substances Act, the Methamphetamine
23 Control and Community Protection Act, or the Steroid Control
24 Act, in addition to any other disposition, penalty or fine
25 imposed, a criminal laboratory analysis fee of \$100 for each

HB0902

- 222 -

LRB101 08006 RLC 53065 b

1 offense for which he was convicted shall be levied by the
2 court. Any person placed on probation pursuant to Section 10 of
3 the Cannabis Control Act, Section 410 of the Illinois
4 Controlled Substances Act, Section 70 of the Methamphetamine
5 Control and Community Protection Act, or Section 10 of the
6 Steroid Control Act or placed on supervision for a violation of
7 the Cannabis Control Act, the Illinois Controlled Substances
8 Act or the Steroid Control Act shall be assessed a criminal
9 laboratory analysis fee of \$100 for each offense for which he
10 was charged. Upon verified petition of the person, the court
11 may suspend payment of all or part of the fee if it finds that
12 the person does not have the ability to pay the fee.

13 (c) In addition to any other disposition made pursuant to
14 the provisions of the Juvenile Court Act of 1987, any minor
15 adjudicated delinquent for an offense which if committed by an
16 adult would constitute a violation of the Cannabis Control Act,
17 the Illinois Controlled Substances Act, the Methamphetamine
18 Control and Community Protection Act, or the Steroid Control
19 Act shall be assessed a criminal laboratory analysis fee of
20 \$100 for each adjudication. Upon verified petition of the
21 minor, the court may suspend payment of all or part of the fee
22 if it finds that the minor does not have the ability to pay the
23 fee. The parent, guardian or legal custodian of the minor may
24 pay some or all of such fee on the minor's behalf.

25 (d) All criminal laboratory analysis fees provided for by
26 this Section shall be collected by the clerk of the court and

1 forwarded to the appropriate crime laboratory fund as provided
2 in subsection (f).

3 (e) Crime laboratory funds shall be established as follows:

4 (1) Any unit of local government which maintains a
5 crime laboratory may establish a crime laboratory fund
6 within the office of the county or municipal treasurer.

7 (2) Any combination of units of local government which
8 maintains a crime laboratory may establish a crime
9 laboratory fund within the office of the treasurer of the
10 county where the crime laboratory is situated.

11 (3) The State Crime Laboratory Fund is hereby created
12 as a special fund in the State Treasury.

13 (f) The analysis fee provided for in subsections (b) and
14 (c) of this Section shall be forwarded to the office of the
15 treasurer of the unit of local government that performed the
16 analysis if that unit of local government has established a
17 crime laboratory fund, or to the State Crime Laboratory Fund if
18 the analysis was performed by a laboratory operated by the
19 Illinois State Police. If the analysis was performed by a crime
20 laboratory funded by a combination of units of local
21 government, the analysis fee shall be forwarded to the
22 treasurer of the county where the crime laboratory is situated
23 if a crime laboratory fund has been established in that county.
24 If the unit of local government or combination of units of
25 local government has not established a crime laboratory fund,
26 then the analysis fee shall be forwarded to the State Crime

1 Laboratory Fund. The clerk of the circuit court may retain the
2 amount of \$10 from each collected analysis fee to offset
3 administrative costs incurred in carrying out the clerk's
4 responsibilities under this Section.

5 (g) Fees deposited into a crime laboratory fund created
6 pursuant to paragraphs (1) or (2) of subsection (e) of this

7 Section shall be in addition to any allocations made pursuant
8 to existing law and shall be designated for the exclusive use
9 of the crime laboratory. These uses may include, but are not
10 limited to, the following:

11 (1) costs incurred in providing analysis for
12 controlled substances in connection with criminal
13 investigations conducted within this State;

14 (2) purchase and maintenance of equipment for use in
15 performing analyses; and

16 (3) continuing education, training and professional
17 development of forensic scientists regularly employed by
18 these laboratories.

19 (h) Fees deposited in the State Crime Laboratory Fund
20 created pursuant to paragraph (3) of subsection (d) of this
21 Section shall be used by State crime laboratories as designated
22 by the Director of State Police. These funds shall be in
23 addition to any allocations made pursuant to existing law and
24 shall be designated for the exclusive use of State crime
25 laboratories. These uses may include those enumerated in
26 subsection (g) of this Section.

HB0902

- 225 -

LRB101 08006 RLC 53065 b

1 (Source: P.A. 94-556, eff. 9-11-05.)

2 (Text of Section after amendment by P.A. 100-987)

3 Sec. 5-9-1.4. (a) "Crime laboratory" means any
4 not-for-profit laboratory registered with the Drug Enforcement
5 Administration of the United States Department of Justice,
6 substantially funded by a unit or combination of units of local
7 government or the State of Illinois, which regularly employs at
8 least one person engaged in the analysis of controlled
9 substances, cannabis, methamphetamine, or steroids for
10 criminal justice agencies in criminal matters and provides
11 testimony with respect to such examinations.

12 (b) (Blank).

13 (c) In addition to any other disposition made pursuant to
14 the provisions of the Juvenile Court Act of 1987, any minor
15 adjudicated delinquent for an offense which if committed by an

16 adult would constitute a violation of the Cannabis Control Act,
17 the Illinois Controlled Substances Act, the Methamphetamine
18 Control and Community Protection Act, or the Steroid Control
19 Act shall be required to pay a criminal laboratory analysis
20 assessment of \$100 for each adjudication. Upon verified
21 petition of the minor, the court may suspend payment of all or
22 part of the assessment if it finds that the minor does not have
23 the ability to pay the assessment. The parent, guardian or
24 legal custodian of the minor may pay some or all of such
25 assessment on the minor's behalf.

HB0902

- 226 -

LRB101 08006 RLC 53065 b

1 (d) All criminal laboratory analysis fees provided for by
2 this Section shall be collected by the clerk of the court and
3 forwarded to the appropriate crime laboratory fund as provided
4 in subsection (f).

5 (e) Crime laboratory funds shall be established as follows:

6 (1) Any unit of local government which maintains a
7 crime laboratory may establish a crime laboratory fund
8 within the office of the county or municipal treasurer.

9 (2) Any combination of units of local government which
10 maintains a crime laboratory may establish a crime
11 laboratory fund within the office of the treasurer of the
12 county where the crime laboratory is situated.

13 (3) The State Crime Laboratory Fund is hereby created
14 as a special fund in the State Treasury.

15 (f) The analysis assessment provided for in subsection (c)
16 of this Section shall be forwarded to the office of the
17 treasurer of the unit of local government that performed the
18 analysis if that unit of local government has established a
19 crime laboratory fund, or to the State Crime Laboratory Fund if
20 the analysis was performed by a laboratory operated by the
21 Illinois State Police. If the analysis was performed by a crime
22 laboratory funded by a combination of units of local
23 government, the analysis assessment shall be forwarded to the
24 treasurer of the county where the crime laboratory is situated
25 if a crime laboratory fund has been established in that county.

1 local government has not established a crime laboratory fund,
2 then the analysis assessment shall be forwarded to the State
3 Crime Laboratory Fund.

4 (g) Moneys deposited into a crime laboratory fund created
5 pursuant to paragraphs (1) or (2) of subsection (e) of this
6 Section shall be in addition to any allocations made pursuant
7 to existing law and shall be designated for the exclusive use
8 of the crime laboratory. These uses may include, but are not
9 limited to, the following:

10 (1) costs incurred in providing analysis for
11 controlled substances in connection with criminal
12 investigations conducted within this State;

13 (2) purchase and maintenance of equipment for use in
14 performing analyses; and

15 (3) continuing education, training and professional
16 development of forensic scientists regularly employed by
17 these laboratories.

18 (h) Moneys deposited in the State Crime Laboratory Fund
19 created pursuant to paragraph (3) of subsection (d) of this
20 Section shall be used by State crime laboratories as designated
21 by the Director of State Police. These funds shall be in
22 addition to any allocations made pursuant to existing law and
23 shall be designated for the exclusive use of State crime
24 laboratories. These uses may include those enumerated in
25 subsection (g) of this Section.

26 (Source: P.A. 100-987, eff. 7-1-19.)

1 Section 995. No acceleration or delay. Where this Act makes
2 changes in a statute that is represented in this Act by text
3 that is not yet or no longer in effect (for example, a Section

4 represented by multiple versions), the use of that text does
5 not accelerate or delay the taking effect of (i) the changes
6 made by this Act or (ii) provisions derived from any other
7 Public Act.

8 Section 997. Severability. The provisions of this Act are
9 severable under Section 1.31 of the Statute on Statutes.

10 Section 999. Effective date. This Act takes effect upon
11 becoming law.

HB0902

- 229 -

LRB101 08006 RLC 53065 b

1	INDEX	
2	Statutes amended in order of appearance	
3	New Act	
4	20 ILCS 301/40-5	
5	20 ILCS 2630/5	from Ch. 38, par. 206-5
6	20 ILCS 2630/5.2	
7	30 ILCS 105/5.891 new	
8	30 ILCS 105/5.892 new	
9	35 ILCS 5/203	from Ch. 120, par. 2-203
10	410 ILCS 130/10	
11	410 ILCS 130/220 rep.	
12	720 ILCS 550/3.5 new	
13	720 ILCS 550/4	from Ch. 56 1/2, par. 704
14	720 ILCS 550/4.1 new	
15	720 ILCS 550/5	from Ch. 56 1/2, par. 705
16	720 ILCS 550/7	from Ch. 56 1/2, par. 707
17	720 ILCS 550/8	from Ch. 56 1/2, par. 708
18	720 ILCS 550/9	from Ch. 56 1/2, par. 709
19	720 ILCS 550/10	from Ch. 56 1/2, par. 710
20	720 ILCS 550/12	from Ch. 56 1/2, par. 712

21 720 ILCS 550/16.2
22 720 ILCS 600/2 from Ch. 56 1/2, par. 2102
23 720 ILCS 600/3.5
24 720 ILCS 600/4 from Ch. 56 1/2, par. 2104
25 720 ILCS 600/6 from Ch. 56 1/2, par. 2106

HB0902

- 230 -

LRB101 08006 RLC 53065 b

1 725 ILCS 175/3 from Ch. 56 1/2, par. 1653
2 725 ILCS 5/111-3.1 new
3 730 ILCS 5/3-3-13 from Ch. 38, par. 1003-3-13
4 730 ILCS 5/5-1-15 from Ch. 38, par. 1005-1-15
5 730 ILCS 5/5-9-1.1 from Ch. 38, par. 1005-9-1.1
6 730 ILCS 5/5-9-1.4 from Ch. 38, par. 1005-9-1.4