



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB2718

by Rep. Emanuel Chris Welch

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Housing Development Act. Requires the Director of the Illinois Housing Development Authority to oversee an annual evaluation of derivative deals, including interest rate swaps, initiated to manage interest rate exposure, in order to ascertain the financial costs of these agreements. Provides that if these agreements have resulted in losses to the Authority, the Director shall make all necessary efforts to recover those moneys. Requires the Authority to conduct specified duties to achieve these goals. Makes similar changes concerning the annual evaluation of derivative deals under the General Obligation Bond Act, the State University Certificates of Participation Act, the University of Illinois Revenue Bond Financing Act for Auxiliary Facilities, and the Toll Highway Act. Further amends the General Obligation Bond Act by removing a provision permitting a Bond Sale Order to provide for variable interest rates to be established pursuant to a process generally known as an auction rate process and to provide for appointment of one or more financial institutions to serve as auction agents and broker-dealers in connection with the establishment of such interest rates and the sale and remarketing of such Bonds. Provides that after July 1, 2017, the State may not, with respect to Bonds issued or anticipated to be issued, participate in and enter into interest rate exchange agreements, financial futures contracts, or any other similar arrangements alleged to have the purpose of managing interest rate exposure. Provides that the amount of the State's variable rate exposure with respect to Bonds shall not exceed 10% (rather than 20%). Makes other changes.

LRB100 10499 KTG 20713 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 1. Findings. Beginning in 1998, the State of  
5 Illinois and its agencies began entering into interest rate  
6 swap agreements with various counterparties, including Bank of  
7 America, JP Morgan Chase, Goldman Sachs, Wells Fargo,  
8 Citigroup, Bank of New York Mellon, Deutsche Bank, Loop  
9 Financial, Morgan Stanley, and the American International  
10 Group in the connection with the issuance of bonds and  
11 certificates.

12 It is estimated that the State has made more than  
13 \$700,000,000 in net payments to these counterparties as of the  
14 end of fiscal year 2016, and continues to pay more than  
15 \$70,000,000 a year, resulting in an additional \$800,000,000 in  
16 net payments projected over the remaining life of these deals,  
17 from fiscal years 2017 through 2033.

18 The swap agreements do not serve their stated original  
19 purpose to mitigate interest rate risks largely due to the 2008  
20 financial crash and the resulting sharp decline in variable  
21 interest rates.

22 Section 5. The Illinois Housing Development Act is amended  
23 by changing Section 16 as follows:

1 (20 ILCS 3805/16) (from Ch. 67 1/2, par. 316)

2 Sec. 16. The notes and bonds issued under this Act shall be  
3 authorized by resolution of the members of the Authority, shall  
4 bear such date or dates, and shall mature at such time or  
5 times, in the case of any note, or any renewal thereof, not  
6 exceeding 15 years (or such longer time not exceeding 25 years  
7 if the Authority shall determine, with respect to notes issued  
8 in anticipation of bonds, that a longer maturity date is  
9 required in order to assure the ability to issue the bonds),  
10 from the date of issue of such original note, and in the case  
11 of any bond not exceeding 50 years from the date of issue, as  
12 the resolution may provide. The bonds may be issued as serial  
13 bonds or as term bonds or as a combination thereof. The notes  
14 and bonds shall bear interest at such rate or rates as shall be  
15 determined by the members of the Authority by the resolution  
16 authorizing issuance of the bonds and notes provided, however,  
17 that notes and bonds issued after July 1, 1983, shall bear  
18 interest at such rate or rates not exceeding the greater of (i)  
19 the maximum rate established in "An Act to authorize public  
20 corporations to issue bonds, other evidences of indebtedness  
21 and tax anticipation warrants subject to interest rate  
22 limitations set forth therein", approved May 26, 1970, as from  
23 time to time in effect; (ii) 11% per annum or (iii) 70% of the  
24 prime commercial rate in effect at the time the contract is  
25 made. In the event the Authority issues notes or bonds not

1 exempt from income taxation under the Internal Revenue Code of  
2 1954, as amended, such notes or bonds shall bear interest at a  
3 rate or rates as shall be determined by the members of the  
4 Authority by the resolution authorizing issuance of the bonds  
5 and notes. Prime commercial rate means such prime rate as from  
6 time to time is publicly announced by the largest commercial  
7 banking institution located in this State, measured in terms of  
8 total assets. A contract is made with respect to notes or bonds  
9 when the Authority is contractually obligated to issue and sell  
10 such notes or bonds to a purchaser who is contractually  
11 obligated to purchase them. The notes and bonds shall be in  
12 such denominations, be in such form, either coupon or  
13 registered, carry such registration privileges, be executed in  
14 such manner, be payable in such medium of payment, at such  
15 place or places and be subject to such terms of redemption as  
16 such resolution or resolutions may provide. The notes and bonds  
17 of the Authority may be sold by the Authority, at public or  
18 private sale, at such price or prices as the Authority shall  
19 determine.

20 In lieu of establishing the rate at which notes or bonds of  
21 the Authority shall bear interest and the price at which the  
22 notes or bonds shall be sold, the resolution authorizing their  
23 issuance may set maximum and minimum prices, interest rates and  
24 annual interest cost to the Authority for that issue of notes  
25 or bonds (computed as the resolution shall provide), such that  
26 the difference between the maximum and minimum annual interest

1 cost shall not exceed 1% of the principal amount of the notes  
2 or bonds. Such a resolution shall authorize any two of the  
3 Chairman, Treasurer or Director (or in the Director's absence,  
4 the Deputy Director) to establish the actual price and interest  
5 rate within the range established by the resolution. In lieu of  
6 establishing the dates, maturities or other terms of the notes  
7 or bonds, the resolution authorizing their issuance may  
8 authorize any two of the Chairman, Treasurer or Director (or in  
9 the Director's absence, the Deputy Director) to establish such  
10 dates, maturities and other terms within ranges or criteria  
11 established by the resolution.

12 In connection with the issuance of its notes and bonds, the  
13 Authority may enter into arrangements to provide additional  
14 security and liquidity for the notes and bonds. These may  
15 include, without limitation, letters of credit, lines of credit  
16 by which the Authority may borrow funds to pay or redeem its  
17 notes or bonds and purchase or remarketing arrangements for  
18 assuring the ability of owners of the Authority's notes and  
19 bonds to sell or to have redeemed their notes and bonds. The  
20 Authority may enter into contracts and may agree to pay fees to  
21 persons providing such arrangements, but only under  
22 circumstances in which the total interest paid or to be paid on  
23 the notes or bonds, together with the fees for the arrangements  
24 (being treated as if interest), would not, taken together,  
25 cause the notes or bonds to bear interest, calculated to their  
26 absolute maturity, at a rate in excess of the maximum rate

1 allowed by this Act.

2 The resolution of the Authority authorizing the issuance of  
3 its notes or bonds may provide that interest rates may vary  
4 from time to time depending upon criteria established by the  
5 Authority, which may include, without limitation, a variation  
6 in interest rates as may be necessary to cause notes or bonds  
7 to be remarketable from time to time at a price equal to their  
8 principal amount (or compound accredited value in case of  
9 original issue discount bonds), and may provide for appointment  
10 of a national banking association, bank, trust company,  
11 investment bank or other financial institution to serve as a  
12 remarketing agent in that connection. The resolution of the  
13 Authority authorizing the issuance of its notes or bonds may  
14 provide that alternative interest rates or provisions will  
15 apply during such times as the notes or bonds are held by a  
16 person providing a letter of credit or other credit enhancement  
17 arrangement for those notes or bonds. Notwithstanding any other  
18 provisions of law, there shall be no statutory limitation on  
19 the interest rates which such variable rate notes and bonds may  
20 bear from time to time.

21 In addition to the other authorizations contained in this  
22 Section, the Authority may adopt a resolution or resolutions  
23 granting to any two of the Chairman, Treasurer or Director (or  
24 in the Director's absence, the Deputy Director) the power to  
25 authorize issuance of notes or bonds, or both, on behalf of the  
26 Authority from time to time without further resolution of the

1 Authority. Any such resolution shall contain a statement of the  
2 maximum aggregate amount of notes or bonds that may be  
3 outstanding at any one time pursuant to the authorization  
4 granted in such resolution. Such resolution shall also contain  
5 a statement of the period of time during which such notes or  
6 bonds of the Authority may be so issued. Such resolution shall  
7 also delegate specifically or generally to the persons  
8 empowered to authorize issuance of the notes or bonds the  
9 authority to establish or approve any or all matters relating  
10 to the issuance and sale of the notes or bonds, which may  
11 include the interest rates, if any, which the notes or bonds  
12 shall bear and the prices (including premiums or discounts, if  
13 any) at which they shall be issued and sold, or the criteria  
14 upon which such interest rates and prices may vary, the  
15 appointment of remarketing agents, the approval of alternative  
16 interest rates, whether there shall be any statutory or other  
17 limitation on the interest rates which such notes or bonds may  
18 bear (treating as if interest the fees for any arrangements to  
19 provide additional security and liquidity for the notes and  
20 bonds), and the dates, maturities and other terms and  
21 conditions on which the notes or bonds shall be issued and  
22 sold. Any or all of such matters may vary from issue to issue  
23 and within an issue. Any such resolution may set forth the  
24 criteria by which any or all of the matters entrusted to the  
25 persons designated in such resolution are to be established or  
26 approved, and may grant the power to authorize issuance of

1 notes or bonds which are exempt from income taxation under the  
2 Internal Revenue Code of 1954, as amended, or which are not  
3 exempt.

4 The Director of the Illinois Housing Development Authority  
5 must oversee an annual evaluation of derivative deals,  
6 including interest rate swaps, initiated to manage interest  
7 rate exposure, in order to ascertain the financial costs of  
8 these agreements. If these agreements have resulted in losses  
9 to the Authority, the Director shall make all necessary efforts  
10 to recover those moneys. To achieve these goals, the Director  
11 shall:

12 (1) Authorize agency administrators to negotiate and  
13 terminate the Authority's interest rate swap agreements  
14 with banks to the extent that the Authority is able to do  
15 so at no cost and not later than the end of the next fiscal  
16 year after a finding of losses to Illinois taxpayers is  
17 made. If a respective bank refuses to terminate without  
18 fees or penalty by that date, then it will be excluded from  
19 any future business with the Authority during the life of  
20 the swap agreement, and the Authority should continue to  
21 use all good faith efforts until said bank drops the  
22 termination fees and penalty.

23 (2) Not enter into any blanket release of legal  
24 liabilities in relation to any interest rate swap  
25 agreement.

26 (3) Investigate and determine the amount of the moneys



1 lost by the Authority due to alleged illegal or unethical  
2 acts by financial institutions, including, but not limited  
3 to, manipulating the London Interbank Offered Rate  
4 (LIBOR), misrepresenting the risks associated with complex  
5 financial deals like interest rate swaps and auction rate  
6 securities, mispricing municipal derivatives, and rigging  
7 bids on competitively bid contracts.

8 (A) The investigation shall examine all successful  
9 or pending legal actions taken by other governmental  
10 entities (including both issuers of debt and  
11 enforcement authorities) in the United States to  
12 recover money from such practices. In each case if the  
13 investigation finds no basis for action under a similar  
14 legal theory, the report of the investigation shall set  
15 forth specific reasons why action under the legal  
16 theory is not feasible.

17 (B) The investigation shall be completed no later  
18 than 6 months after the effective date of this  
19 amendatory Act of the 100th General Assembly. The  
20 Director shall request the Attorney General to  
21 evaluate and pursue all legal remedies.

22 Notwithstanding any other provision of law, and in addition  
23 to any other authority provided by law, with respect to  
24 mortgage or other loans made by it, the Authority may require  
25 payments of principal, make interest charges and impose  
26 prepayment premiums or penalties (in addition to any fees or

1 charges made by the Authority) so that such principal, interest  
2 and premiums or penalties are sufficient to enable the  
3 Authority to pay when due all principal, interest and  
4 redemption premiums or penalties on any notes or bonds issued  
5 by the Authority to finance or continue the financing of such  
6 loans (including a proportionate share of such bonds or notes  
7 issued to fund reserves or to cover any discount) and to make  
8 any required deposits in any reserve funds; and any contract  
9 relating to any mortgage or other loan made by the Authority  
10 may provide for changes during its term in the rate at which  
11 interest shall be paid, to the extent the changes are provided  
12 for in order to enable the Authority to make payments with  
13 respect to bonds or notes as provided in this Section.

14 (Source: P.A. 85-1450.)

15 Section 10. The General Obligation Bond Act is amended by  
16 changing Sections 9 and 14 and by adding Section 15.1 as  
17 follows:

18 (30 ILCS 330/9) (from Ch. 127, par. 659)

19 Sec. 9. Conditions for Issuance and Sale of Bonds -  
20 Requirements for Bonds.

21 (a) Except as otherwise provided in this subsection, Bonds  
22 shall be issued and sold from time to time, in one or more  
23 series, in such amounts and at such prices as may be directed  
24 by the Governor, upon recommendation by the Director of the

1 Governor's Office of Management and Budget. Bonds shall be in  
2 such form (either coupon, registered or book entry), in such  
3 denominations, payable within 25 years from their date, subject  
4 to such terms of redemption with or without premium, bear  
5 interest payable at such times and at such fixed or variable  
6 rate or rates, and be dated as shall be fixed and determined by  
7 the Director of the Governor's Office of Management and Budget  
8 in the order authorizing the issuance and sale of any series of  
9 Bonds, which order shall be approved by the Governor and is  
10 herein called a "Bond Sale Order"; provided however, that  
11 interest payable at fixed or variable rates shall not exceed  
12 that permitted in the Bond Authorization Act, as now or  
13 hereafter amended. Bonds shall be payable at such place or  
14 places, within or without the State of Illinois, and may be  
15 made registrable as to either principal or as to both principal  
16 and interest, as shall be specified in the Bond Sale Order.  
17 Bonds may be callable or subject to purchase and retirement or  
18 tender and remarketing as fixed and determined in the Bond Sale  
19 Order. Bonds, other than Bonds issued under Section 3 of this  
20 Act for the costs associated with the purchase and  
21 implementation of information technology, (i) except for  
22 refunding Bonds satisfying the requirements of Section 16 of  
23 this Act and sold during fiscal year 2009, 2010, 2011, or 2017  
24 must be issued with principal or mandatory redemption amounts  
25 in equal amounts, with the first maturity issued occurring  
26 within the fiscal year in which the Bonds are issued or within

1 the next succeeding fiscal year and (ii) must mature or be  
2 subject to mandatory redemption each fiscal year thereafter up  
3 to 25 years, except for refunding Bonds satisfying the  
4 requirements of Section 16 of this Act and sold during fiscal  
5 year 2009, 2010, or 2011 which must mature or be subject to  
6 mandatory redemption each fiscal year thereafter up to 16  
7 years. Bonds issued under Section 3 of this Act for the costs  
8 associated with the purchase and implementation of information  
9 technology must be issued with principal or mandatory  
10 redemption amounts in equal amounts, with the first maturity  
11 issued occurring with the fiscal year in which the respective  
12 bonds are issued or with the next succeeding fiscal year, with  
13 the respective bonds issued maturing or subject to mandatory  
14 redemption each fiscal year thereafter up to 10 years.  
15 Notwithstanding any provision of this Act to the contrary, the  
16 Bonds authorized by Public Act 96-43 shall be payable within 5  
17 years from their date and must be issued with principal or  
18 mandatory redemption amounts in equal amounts, with payment of  
19 principal or mandatory redemption beginning in the first fiscal  
20 year following the fiscal year in which the Bonds are issued.

21 Notwithstanding any provision of this Act to the contrary,  
22 the Bonds authorized by Public Act 96-1497 shall be payable  
23 within 8 years from their date and shall be issued with payment  
24 of maturing principal or scheduled mandatory redemptions in  
25 accordance with the following schedule, except the following  
26 amounts shall be prorated if less than the total additional

1 amount of Bonds authorized by Public Act 96-1497 are issued:

2	Fiscal Year After Issuance	Amount
3	1-2	\$0
4	3	\$110,712,120
5	4	\$332,136,360
6	5	\$664,272,720
7	6-8	\$996,409,080

8 In the case of any series of Bonds bearing interest at a  
9 variable interest rate ("Variable Rate Bonds"), in lieu of  
10 determining the rate or rates at which such series of Variable  
11 Rate Bonds shall bear interest and the price or prices at which  
12 such Variable Rate Bonds shall be initially sold or remarketed  
13 (in the event of purchase and subsequent resale), the Bond Sale  
14 Order may provide that such interest rates and prices may vary  
15 from time to time depending on criteria established in such  
16 Bond Sale Order, which criteria may include, without  
17 limitation, references to indices or variations in interest  
18 rates as may, in the judgment of a remarketing agent, be  
19 necessary to cause Variable Rate Bonds of such series to be  
20 remarketable from time to time at a price equal to their  
21 principal amount, and may provide for appointment of a bank,  
22 trust company, investment bank, or other financial institution  
23 to serve as remarketing agent in that connection. The Bond Sale  
24 Order may provide that alternative interest rates or provisions  
25 for establishing alternative interest rates, different  
26 security or claim priorities, or different call or amortization

1 provisions will apply during such times as Variable Rate Bonds  
2 of any series are held by a person providing credit or  
3 liquidity enhancement arrangements for such Bonds as  
4 authorized in subsection (b) of this Section. ~~The Bond Sale  
5 Order may also provide for such variable interest rates to be  
6 established pursuant to a process generally known as an auction  
7 rate process and may provide for appointment of one or more  
8 financial institutions to serve as auction agents and  
9 broker dealers in connection with the establishment of such  
10 interest rates and the sale and remarketing of such Bonds.~~

11 (b) In connection with the issuance of any series of Bonds,  
12 the State may enter into arrangements to provide additional  
13 security and liquidity for such Bonds, including, without  
14 limitation, bond or interest rate insurance or letters of  
15 credit, lines of credit, bond purchase contracts, or other  
16 arrangements whereby funds are made available to retire or  
17 purchase Bonds, thereby assuring the ability of owners of the  
18 Bonds to sell or redeem their Bonds. The State may enter into  
19 contracts and may agree to pay fees to persons providing such  
20 arrangements, but only under circumstances where the Director  
21 of the Governor's Office of Management and Budget certifies  
22 that he or she reasonably expects the total interest paid or to  
23 be paid on the Bonds, together with the fees for the  
24 arrangements (being treated as if interest), would not, taken  
25 together, cause the Bonds to bear interest, calculated to their  
26 stated maturity, at a rate that is no more than two-thirds ~~in~~

1 ~~excess~~ of the rate that the Bonds would bear in the absence of  
2 such arrangements.

3 After July 1, 2017, the State may not, with respect to  
4 Bonds issued or anticipated to be issued, participate in and  
5 enter into interest rate exchange agreements, financial  
6 futures contracts, or any other similar arrangements alleged to  
7 have the purpose of managing interest rate exposure. ~~The State~~  
8 ~~may, with respect to Bonds issued or anticipated to be issued,~~  
9 ~~participate in and enter into arrangements with respect to~~  
10 ~~interest rate protection or exchange agreements, guarantees,~~  
11 ~~or financial futures contracts for the purpose of limiting,~~  
12 ~~reducing, or managing interest rate exposure. The authority~~  
13 ~~granted under this paragraph, however, shall not increase the~~  
14 ~~principal amount of Bonds authorized to be issued by law. The~~  
15 ~~arrangements may be executed and delivered by the Director of~~  
16 ~~the Governor's Office of Management and Budget on behalf of the~~  
17 ~~State. Net payments for such arrangements shall constitute~~  
18 ~~interest on the Bonds and shall be paid from the General~~  
19 ~~Obligation Bond Retirement and Interest Fund. The Director of~~  
20 ~~the Governor's Office of Management and Budget shall at least~~  
21 ~~annually certify to the Governor and the State Comptroller his~~  
22 ~~or her estimate of the amounts of such net payments to be~~  
23 ~~included in the calculation of interest required to be paid by~~  
24 ~~the State.~~

25 (c) Prior to the issuance of any Variable Rate Bonds  
26 pursuant to subsection (a), the Director of the Governor's

1 Office of Management and Budget shall adopt an interest rate  
2 risk management policy providing that the amount of the State's  
3 variable rate exposure with respect to Bonds shall not exceed  
4 10% ~~20%~~. This policy shall remain in effect while any Bonds are  
5 outstanding and the issuance of Bonds shall be subject to the  
6 terms of such policy. The terms of this policy may be amended  
7 from time to time by the Director of the Governor's Office of  
8 Management and Budget but in no event shall any amendment cause  
9 the permitted level of the State's variable rate exposure with  
10 respect to Bonds to exceed 10% ~~20%~~.

11 (d) "Build America Bonds" in this Section means Bonds  
12 authorized by Section 54AA of the Internal Revenue Code of  
13 1986, as amended ("Internal Revenue Code"), and bonds issued  
14 from time to time to refund or continue to refund "Build  
15 America Bonds".

16 (e) Notwithstanding any other provision of this Section,  
17 Qualified School Construction Bonds shall be issued and sold  
18 from time to time, in one or more series, in such amounts and  
19 at such prices as may be directed by the Governor, upon  
20 recommendation by the Director of the Governor's Office of  
21 Management and Budget. Qualified School Construction Bonds  
22 shall be in such form (either coupon, registered or book  
23 entry), in such denominations, payable within 25 years from  
24 their date, subject to such terms of redemption with or without  
25 premium, and if the Qualified School Construction Bonds are  
26 issued with a supplemental coupon, bear interest payable at



1 such times and at such fixed or variable rate or rates, and be  
2 dated as shall be fixed and determined by the Director of the  
3 Governor's Office of Management and Budget in the order  
4 authorizing the issuance and sale of any series of Qualified  
5 School Construction Bonds, which order shall be approved by the  
6 Governor and is herein called a "Bond Sale Order"; except that  
7 interest payable at fixed or variable rates, if any, shall not  
8 exceed that permitted in the Bond Authorization Act, as now or  
9 hereafter amended. Qualified School Construction Bonds shall  
10 be payable at such place or places, within or without the State  
11 of Illinois, and may be made registrable as to either principal  
12 or as to both principal and interest, as shall be specified in  
13 the Bond Sale Order. Qualified School Construction Bonds may be  
14 callable or subject to purchase and retirement or tender and  
15 remarketing as fixed and determined in the Bond Sale Order.  
16 Qualified School Construction Bonds must be issued with  
17 principal or mandatory redemption amounts or sinking fund  
18 payments into the General Obligation Bond Retirement and  
19 Interest Fund (or subaccount therefor) in equal amounts, with  
20 the first maturity issued, mandatory redemption payment or  
21 sinking fund payment occurring within the fiscal year in which  
22 the Qualified School Construction Bonds are issued or within  
23 the next succeeding fiscal year, with Qualified School  
24 Construction Bonds issued maturing or subject to mandatory  
25 redemption or with sinking fund payments thereof deposited each  
26 fiscal year thereafter up to 25 years. Sinking fund payments

1 set forth in this subsection shall be permitted only to the  
2 extent authorized in Section 54F of the Internal Revenue Code  
3 or as otherwise determined by the Director of the Governor's  
4 Office of Management and Budget. "Qualified School  
5 Construction Bonds" in this subsection means Bonds authorized  
6 by Section 54F of the Internal Revenue Code and for bonds  
7 issued from time to time to refund or continue to refund such  
8 "Qualified School Construction Bonds".

9 (f) Beginning with the next issuance by the Governor's  
10 Office of Management and Budget to the Procurement Policy Board  
11 of a request for quotation for the purpose of formulating a new  
12 pool of qualified underwriting banks list, all entities  
13 responding to such a request for quotation for inclusion on  
14 that list shall provide a written report to the Governor's  
15 Office of Management and Budget and the Illinois Comptroller.  
16 The written report submitted to the Comptroller shall (i) be  
17 published on the Comptroller's Internet website and (ii) be  
18 used by the Governor's Office of Management and Budget for the  
19 purposes of scoring such a request for quotation. The written  
20 report, at a minimum, shall:

21 (1) disclose whether, within the past 3 months,  
22 pursuant to its credit default swap market-making  
23 activities, the firm has entered into any State of Illinois  
24 credit default swaps ("CDS");

25 (2) include, in the event of State of Illinois CDS  
26 activity, disclosure of the firm's cumulative notional

1 volume of State of Illinois CDS trades and the firm's  
2 outstanding gross and net notional amount of State of  
3 Illinois CDS, as of the end of the current 3-month period;

4 (3) indicate, pursuant to the firm's proprietary  
5 trading activities, disclosure of whether the firm, within  
6 the past 3 months, has entered into any proprietary trades  
7 for its own account in State of Illinois CDS;

8 (4) include, in the event of State of Illinois  
9 proprietary trades, disclosure of the firm's outstanding  
10 gross and net notional amount of proprietary State of  
11 Illinois CDS and whether the net position is short or long  
12 credit protection, as of the end of the current 3-month  
13 period;

14 (5) list all time periods during the past 3 months  
15 during which the firm held net long or net short State of  
16 Illinois CDS proprietary credit protection positions, the  
17 amount of such positions, and whether those positions were  
18 net long or net short credit protection positions; and

19 (6) indicate whether, within the previous 3 months, the  
20 firm released any publicly available research or marketing  
21 reports that reference State of Illinois CDS and include  
22 those research or marketing reports as attachments.

23 (g) All entities included on a Governor's Office of  
24 Management and Budget's pool of qualified underwriting banks  
25 list shall, as soon as possible after March 18, 2011 (the  
26 effective date of Public Act 96-1554), but not later than

1 January 21, 2011, and on a quarterly fiscal basis thereafter,  
2 provide a written report to the Governor's Office of Management  
3 and Budget and the Illinois Comptroller. The written reports  
4 submitted to the Comptroller shall be published on the  
5 Comptroller's Internet website. The written reports, at a  
6 minimum, shall:

7 (1) disclose whether, within the past 3 months,  
8 pursuant to its credit default swap market-making  
9 activities, the firm has entered into any State of Illinois  
10 credit default swaps ("CDS");

11 (2) include, in the event of State of Illinois CDS  
12 activity, disclosure of the firm's cumulative notional  
13 volume of State of Illinois CDS trades and the firm's  
14 outstanding gross and net notional amount of State of  
15 Illinois CDS, as of the end of the current 3-month period;

16 (3) indicate, pursuant to the firm's proprietary  
17 trading activities, disclosure of whether the firm, within  
18 the past 3 months, has entered into any proprietary trades  
19 for its own account in State of Illinois CDS;

20 (4) include, in the event of State of Illinois  
21 proprietary trades, disclosure of the firm's outstanding  
22 gross and net notional amount of proprietary State of  
23 Illinois CDS and whether the net position is short or long  
24 credit protection, as of the end of the current 3-month  
25 period;

26 (5) list all time periods during the past 3 months

1 during which the firm held net long or net short State of  
2 Illinois CDS proprietary credit protection positions, the  
3 amount of such positions, and whether those positions were  
4 net long or net short credit protection positions; and

5 (6) indicate whether, within the previous 3 months, the  
6 firm released any publicly available research or marketing  
7 reports that reference State of Illinois CDS and include  
8 those research or marketing reports as attachments.

9 (Source: P.A. 99-523, eff. 6-30-16.)

10 (30 ILCS 330/14) (from Ch. 127, par. 664)

11 Sec. 14. Repayment.

12 (a) To provide for the manner of repayment of Bonds, the  
13 Governor shall include an appropriation in each annual State  
14 Budget of monies in such amount as shall be necessary and  
15 sufficient, for the period covered by such budget, to pay the  
16 interest, as it shall accrue, on all Bonds issued under this  
17 Act, to pay and discharge the principal of such Bonds as shall,  
18 by their terms, fall due during such period, to pay a premium,  
19 if any, on Bonds to be redeemed prior to the maturity date, and  
20 to pay sinking fund payments in connection with Qualified  
21 School Construction Bonds authorized by subsection (e) of  
22 Section 9. Amounts included in such appropriations for the  
23 payment of interest on variable rate bonds shall be the maximum  
24 amounts of interest that may be payable for the period covered  
25 by the budget, after taking into account any credits permitted

1 in the related indenture or other instrument against the amount  
2 of such interest required to be appropriated for such period.  
3 Amounts included in such appropriations for the payment of  
4 interest shall include the amounts certified by the Director of  
5 the Governor's Office of Management and Budget under subsection  
6 (b) of Section 9 of this Act. The amount shall also include  
7 certified estimates from the Director of the Governor's Office  
8 of Management and Budget of net payments for any arrangements  
9 with respect to interest rate protection or exchange  
10 agreements, guarantees, or financial futures contracts for the  
11 purpose of limiting, reducing, or managing interest rate  
12 exposure entered into prior to July 1, 2017 and still remaining  
13 in effect.

14 (b) A separate fund in the State Treasury called the  
15 "General Obligation Bond Retirement and Interest Fund" is  
16 hereby created.

17 (c) The General Assembly shall annually make  
18 appropriations to pay the principal of, interest on, and  
19 premium, if any, on Bonds sold under this Act from the General  
20 Obligation Bond Retirement and Interest Fund. Amounts included  
21 in such appropriations for the payment of interest on variable  
22 rate bonds shall be the maximum amounts of interest that may be  
23 payable during the fiscal year, after taking into account any  
24 credits permitted in the related indenture or other instrument  
25 against the amount of such interest required to be appropriated  
26 for such period. Amounts included in such appropriations for

1 the payment of interest shall include the amounts certified by  
2 the Director of the Governor's Office of Management and Budget  
3 under subsection (b) of Section 9 of this Act.

4 If for any reason there are insufficient funds in either  
5 the General Revenue Fund or the Road Fund to make transfers to  
6 the General Obligation Bond Retirement and Interest Fund as  
7 required by Section 15 of this Act, or if for any reason the  
8 General Assembly fails to make appropriations sufficient to pay  
9 the principal of, interest on, and premium, if any, on the  
10 Bonds, as the same by their terms shall become due, this Act  
11 shall constitute an irrevocable and continuing appropriation  
12 of all amounts necessary for that purpose, and the irrevocable  
13 and continuing authority for and direction to the State  
14 Treasurer and the Comptroller to make the necessary transfers,  
15 as directed by the Governor, out of and disbursements from the  
16 revenues and funds of the State.

17 (d) If, because of insufficient funds in either the General  
18 Revenue Fund or the Road Fund, monies have been transferred to  
19 the General Obligation Bond Retirement and Interest Fund, as  
20 required by subsection (c) of this Section, this Act shall  
21 constitute the irrevocable and continuing authority for and  
22 direction to the State Treasurer and Comptroller to reimburse  
23 these funds of the State from the General Revenue Fund or the  
24 Road Fund, as appropriate, by transferring, at such times and  
25 in such amounts, as directed by the Governor, an amount to  
26 these funds equal to that transferred from them.

1 (Source: P.A. 96-828, eff. 12-2-09.)

2 (30 ILCS 330/15.1 new)

3 Sec. 15.1. Derivative deal investigations. The Director of  
4 the Governor's Office of Management and Budget must oversee an  
5 annual evaluation of derivative deals, including interest rate  
6 swaps, initiated to manage interest rate exposure, in order to  
7 ascertain the financial costs of these agreements. If these  
8 agreements have resulted in losses to the State, the Governor's  
9 Office of Management and Budget shall make all necessary  
10 efforts to recover those moneys. To achieve these goals, the  
11 State shall:

12 (1) Authorize agency administrators to negotiate and  
13 terminate the State's interest rate swap agreements with  
14 banks to the extent that the State is able to do so at no  
15 cost and not later than the end of the next fiscal year  
16 after a finding of losses to Illinois taxpayers is made. If  
17 a respective bank refuses to terminate without fees or  
18 penalty by that date, then it will be excluded from any  
19 future business with the State of Illinois during the life  
20 of the swap agreement, and the State should continue to use  
21 all good faith efforts until said bank drops the  
22 termination fees and penalty.

23 (2) Not enter into any blanket release of legal  
24 liabilities in relation to any interest rate swap  
25 agreement.



1           (3) Investigate and determine the amount of the moneys  
2           lost by the State of Illinois due to alleged illegal or  
3           unethical acts by financial institutions, including but  
4           not limited to manipulating the London Interbank Offered  
5           Rate (LIBOR), misrepresenting the risks associated with  
6           complex financial deals like interest rate swaps and  
7           auction rate securities, mispricing municipal derivatives,  
8           and rigging bids on competitively bid contracts.

9           (A) The investigation shall examine all successful  
10           or pending legal actions taken by other governmental  
11           entities (including both issuers of debt and  
12           enforcement authorities) in the United States to  
13           recover money from such practices. In each case if the  
14           investigation finds no basis for action under a similar  
15           legal theory, the report of the investigation shall set  
16           forth specific reasons why action under the legal  
17           theory is not feasible.

18           (B) The investigation shall be completed no later  
19           than 6 months after the effective date of this  
20           amendatory Act of the 100th General Assembly. The  
21           Governor shall request the Attorney General to  
22           evaluate and pursue all legal remedies.

23           Section 15. The State University Certificates of  
24           Participation Act is amended by adding Sections 17 and 22 as  
25           follows:

1 (110 ILCS 73/17 new)

2 Sec. 17. Derivative deal investigations. The Board of  
3 Trustees of a State University must oversee an annual  
4 evaluation of derivative deals, including interest rate swaps,  
5 initiated to manage interest rate exposure, in order to  
6 ascertain the financial costs of these agreements. If these  
7 agreements have resulted in losses to the State University, the  
8 Board shall make all necessary efforts to recover those moneys.  
9 To achieve these goals, the Board shall:

10 (1) Authorize agency administrators to negotiate and  
11 terminate the State University's interest rate swap  
12 agreements with banks to the extent that the State  
13 University is able to do so at no cost and not later than  
14 the end of the next fiscal year after a finding of losses  
15 to Illinois taxpayers is made. If a respective bank refuses  
16 to terminate without fees or penalty by that date, then it  
17 will be excluded from any future business with the State  
18 University during the life of the swap agreement, and the  
19 State University should continue to use all good faith  
20 efforts until said bank drops the termination fees and  
21 penalty.

22 (2) Not enter into any blanket release of legal  
23 liabilities in relation to any interest rate swap  
24 agreement.

25 (3) Investigate and determine the amount of the moneys

1 lost by the State University due to alleged illegal or  
2 unethical acts by financial institutions, including, but  
3 not limited to, manipulating the London Interbank Offered  
4 Rate (LIBOR), misrepresenting the risks associated with  
5 complex financial deals like interest rate swaps and  
6 auction rate securities, mispricing municipal derivatives,  
7 and rigging bids on competitively bid contracts.

8 (A) The investigation shall examine all successful  
9 or pending legal actions taken by other governmental  
10 entities (including both issuers of debt and  
11 enforcement authorities) in the United States to  
12 recover money from such practices. In each case if the  
13 investigation finds no basis for action under a similar  
14 legal theory, the report of the investigation shall set  
15 forth specific reasons why action under the legal  
16 theory is not feasible.

17 (B) The investigation shall be completed no later  
18 than 6 months after the effective date of this  
19 amendatory Act of the 100th General Assembly. The Board  
20 shall request the Attorney General to evaluate and  
21 pursue all legal remedies.

22 (110 ILCS 73/22 new)

23 Sec. 22. Derivative deal investigations. The Board of  
24 Trustees of the University of Illinois must oversee an annual  
25 evaluation of derivative deals, as set forth in Section 5.2 of

1 the University of Illinois Revenue Bond Financing Act for  
2 Auxiliary Facilities.

3 Section 20. The University of Illinois Revenue Bond  
4 Financing Act for Auxiliary Facilities is amended by adding  
5 Section 5.2 as follows:

6 (110 ILCS 405/5.2 new)

7 Sec. 5.2. Derivative deal investigations. The Board of  
8 Trustees of the University of Illinois must oversee an annual  
9 evaluation of derivative deals, including interest rate swaps,  
10 initiated to manage interest rate exposure, in order to  
11 ascertain the financial costs of these agreements. If these  
12 agreements have resulted in losses to the University of  
13 Illinois, the Board shall make all necessary efforts to recover  
14 those moneys. To achieve these goals, the Board shall:

15 (1) Authorize agency administrators to negotiate and  
16 terminate the University of Illinois' interest rate swap  
17 agreements with banks to the extent that the University of  
18 Illinois is able to do so at no cost and not later than the  
19 end of the next fiscal year after a finding of losses to  
20 Illinois taxpayers is made. If a respective bank refuses to  
21 terminate without fees or penalty by that date, then it  
22 will be excluded from any future business with the  
23 University of Illinois during the life of the swap  
24 agreement, and the University of Illinois should continue

1 to use all good faith efforts until said bank drops the  
2 termination fees and penalty.

3 (2) Not enter into any blanket release of legal  
4 liabilities in relation to any interest rate swap  
5 agreement.

6 (3) Investigate and determine the amount of the moneys  
7 lost by the University of Illinois due to alleged illegal  
8 or unethical acts by financial institutions, including,  
9 but not limited to, manipulating the London Interbank  
10 Offered Rate (LIBOR), misrepresenting the risks associated  
11 with complex financial deals like interest rate swaps and  
12 auction rate securities, mispricing municipal derivatives,  
13 and rigging bids on competitively bid contracts.

14 (A) The investigation shall examine all successful  
15 or pending legal actions taken by other governmental  
16 entities (including both issuers of debt and  
17 enforcement authorities) in the United States to  
18 recover money from such practices. In each case if the  
19 investigation finds no basis for action under a similar  
20 legal theory, the report of the investigation shall set  
21 forth specific reasons why action under the legal  
22 theory is not feasible.

23 (B) The investigation shall be completed no later  
24 than 6 months after the effective date of this  
25 amendatory Act of the 100th General Assembly. The Board  
26 shall request the Attorney General to evaluate and

1           pursue all legal remedies.

2           Section 25. The Toll Highway Act is amended by changing  
3           Section 17 as follows:

4           (605 ILCS 10/17) (from Ch. 121, par. 100-17)

5           Sec. 17. (a) The Authority may from time to time issue  
6           bonds for any lawful purpose including, without limitation, the  
7           costs of issuance thereof and all such bonds or other  
8           obligations of the Authority issued pursuant to this Act shall  
9           be and are hereby declared to be negotiable for all purposes  
10          notwithstanding their payment from a limited source and without  
11          regard to any other law or laws.

12          (b) The bonds of every issue shall be payable solely out of  
13          revenues of the Authority, accumulated reserves or sinking  
14          funds, bond proceeds, proceeds of refunding bonds, or  
15          investment earnings as the Authority shall specify in a bond  
16          resolution.

17          (c) The bonds may be issued as serial bonds or as term  
18          bonds, or the Authority, in its discretion, may issue bonds of  
19          both types. The bonds shall be authorized by a bond resolution  
20          of the Authority, may be issued in one or more series and shall  
21          bear such date or dates, mature at such time or times not  
22          exceeding 25 years from their respective date or dates of  
23          issue, bear interest at such rate or rates, fixed or variable,  
24          without regard to any limit contained in any other statute or

1 law of the State of Illinois, be payable as to principal and  
2 interest at such time or times, be in such denominations, be in  
3 such form, either coupon or fully registered, carry such  
4 registration and conversion privileges, be payable in lawful  
5 money of the United States of America at such places, be  
6 subject to such terms of redemption and may contain such other  
7 terms and provisions, as such bond resolution or resolutions  
8 may provide. The bonds shall be executed by the manual or  
9 facsimile signatures of the Chairman and the Secretary. In case  
10 any of the officers whose signature appears on the bonds or  
11 coupons, if any, shall cease to be an officer before the  
12 delivery of such bonds, such signature shall nevertheless be  
13 valid and sufficient for all purposes, as if he had remained in  
14 office until such delivery. The bonds shall be sold in such  
15 manner as the Authority shall determine. The proceeds from the  
16 sale of such bonds shall be paid to the Treasurer of the State  
17 of Illinois as ex officio custodian. Pending preparation of the  
18 definitive bonds, the Authority may issue interim receipts or  
19 certificates which shall be exchanged for such definitive  
20 bonds.

21 (d) Any bond resolution, or trust indenture entered into  
22 pursuant to a bond resolution, may contain provisions, which  
23 shall be a part of the contract with the holders of the bonds  
24 to be authorized, as to: (i) pledging or creating a lien upon  
25 all or part of the revenues of the Authority or any reserves,  
26 sinking funds, bond proceeds or investment earnings; (ii) the

1 setting aside of reserves or sinking funds, and the regulation,  
2 investment and disposition thereof; (iii) the use and  
3 maintenance requirements for the toll highways; (iv) the  
4 purposes to which or the investments in which the proceeds of  
5 sale of any series or issue of bonds then or thereafter to be  
6 issued may be applied; (v) the issuance of additional bonds,  
7 the terms upon which additional bonds may be issued and  
8 secured, the purposes for such additional bonds, and the terms  
9 upon which additional bonds may rank on a parity with, or be  
10 subordinate or superior to other bonds; (vi) the refunding of  
11 outstanding bonds; (vii) the procedure, if any, by which the  
12 terms of any contract with bondholders may be amended or  
13 abrogated, the amount of bonds the holders of which must  
14 consent thereto, and the manner in which such consent may be  
15 given; (viii) defining the acts or omissions to act which shall  
16 constitute a default in the duties of the Authority to holders  
17 of its obligations and providing the rights and remedies of  
18 such holders in the event of a default; (ix) any other matters  
19 relating to the bonds which the Authority deems desirable.

20 (e) Neither the directors of the Authority nor any person  
21 executing the bonds shall be liable personally on the bonds or  
22 be subject to any personal liability or accountability by  
23 reason of the issuance thereof.

24 (f) The Authority shall have power out of any funds  
25 available therefor to purchase its bonds. The Authority may  
26 hold, pledge, cancel or resell such bonds subject to and in



1 accordance with agreements with bondholders.

2 (g) In the discretion of the Authority any bonds issued  
3 under the provisions of this Act may be secured by a trust  
4 indenture by and between the Authority and a trustee or  
5 trustees, which may be any trust company or bank in the State  
6 of Illinois having the powers of a trust company and possessing  
7 capital and surplus of not less than \$50,000,000. The bond  
8 resolution or trust indenture providing for the issuance of  
9 bonds so secured shall pledge such revenues of the Authority,  
10 sinking funds, bond proceeds, or investment earnings as may be  
11 specified therein, may contain such provisions for protecting  
12 and enforcing the rights and remedies of the bondholders as may  
13 be reasonable and proper and not in violation of law, including  
14 particularly such provisions as have hereinabove been  
15 specifically authorized to be included in any bond resolution  
16 or trust indenture of the Authority, and may restrict the  
17 individual right of action by bondholders. In addition to the  
18 foregoing, any bond resolution or trust indenture may contain  
19 such other provisions as the Authority may deem reasonable and  
20 proper for the security of the bondholders, including, but not  
21 limited to, the purchase of bond insurance and the arrangement  
22 of letters of credit, lines of credit or other credit or  
23 liquidity enhancement facilities; provided there shall be no  
24 pledge of the toll highway or any part thereof. All expenses  
25 incurred in carrying out the provisions of any bond resolution  
26 or trust indenture may be treated as a part of the cost of the

1 operation of the toll highways.

2 (h) Bonds issued under the authority of this Act do not,  
3 and shall state upon the face of each bond that they do not,  
4 represent or constitute a debt of the Authority or of the State  
5 of Illinois within the meaning of any constitutional or  
6 statutory limitation or a pledge of the faith and credit of the  
7 Authority or the State of Illinois, or grant to the owners or  
8 holders thereof any right to have the Authority or the General  
9 Assembly levy any taxes or appropriate any funds for the  
10 payment of the principal thereof or interest thereon. Such  
11 bonds shall be payable and shall state that they are payable  
12 solely from the revenues and the sources authorized under this  
13 Act and pledged for their payment in accordance with the bond  
14 resolution or trust indenture.

15 Nothing in this Act shall be construed to authorize the  
16 Authority or any department, board, commission or other agency  
17 to create an obligation of the State of Illinois within the  
18 meaning of the Constitution or Statutes of Illinois.

19 (i) Any resolution or trust indenture authorizing the  
20 issuance of the bonds may include provision for the issuance of  
21 additional bonds. All resolutions of the Authority to carry  
22 such adopted bond resolutions into effect, to provide for the  
23 sale and delivery of the bonds, for letting of contracts for  
24 the construction of toll highways and the acquisition of real  
25 and personal property deemed by the Authority necessary or  
26 convenient for the construction thereof, shall not require the

1 approval of the Governor or of any other department, division,  
2 commission, bureau, board or other agency of the State.

3 (j) The Director of the Illinois State Toll Highway  
4 Authority must oversee an annual evaluation of derivative  
5 deals, including interest rate swaps, initiated to manage  
6 interest rate exposure, in order to ascertain the financial  
7 costs of these agreements. If these agreements have resulted in  
8 losses to the Authority, the Director shall make all necessary  
9 efforts to recover those moneys. To achieve these goals, the  
10 Director shall:

11 (1) Authorize agency administrators to negotiate and  
12 terminate the Authority's interest rate swap agreements  
13 with banks to the extent that the Authority is able to do  
14 so at no cost and not later than the end of the next fiscal  
15 year after a finding of losses to Illinois taxpayers is  
16 made. If a respective bank refuses to terminate without  
17 fees or penalty by that date, then it will be excluded from  
18 any future business with the Authority during the life of  
19 the swap agreement, and the Authority should continue to  
20 use all good faith efforts until said bank drops the  
21 termination fees and penalty.

22 (2) Not enter into any blanket release of legal  
23 liabilities in relation to any interest rate swap  
24 agreement.

25 (3) Investigate and determine the amount of the moneys  
26 lost by the Authority due to alleged illegal or unethical

1 acts by financial institutions, including, but not limited  
2 to, manipulating the London Interbank Offered Rate  
3 (LIBOR), misrepresenting the risks associated with complex  
4 financial deals like interest rate swaps and auction rate  
5 securities, mispricing municipal derivatives, and rigging  
6 bids on competitively bid contracts.

7 (A) The investigation shall examine all successful  
8 or pending legal actions taken by other governmental  
9 entities (including both issuers of debt and  
10 enforcement authorities) in the United States to  
11 recover money from such practices. In each case if the  
12 investigation finds no basis for action under a similar  
13 legal theory, the report of the investigation shall set  
14 forth specific reasons why action under the legal  
15 theory is not feasible.

16 (B) The investigation shall be completed by no  
17 later than 6 months after the effective date of this  
18 amendatory Act of the 100th General Assembly. The  
19 Director shall request the Attorney General to  
20 evaluate and pursue all legal remedies.

21 (Source: P.A. 83-1258.)

1 INDEX

2 Statutes amended in order of appearance

3 20 ILCS 3805/16 from Ch. 67 1/2, par. 316

4 30 ILCS 330/9 from Ch. 127, par. 659

5 30 ILCS 330/14 from Ch. 127, par. 664

6 30 ILCS 330/15.1 new

7 110 ILCS 73/17 new

8 110 ILCS 73/22 new

9 110 ILCS 405/5.2 new

10 605 ILCS 10/17 from Ch. 121, par. 100-17