SENATE JOURNAL

STATE OF ILLINOIS

NINETY-FIFTH GENERAL ASSEMBLY

147TH LEGISLATIVE DAY

WEDNESDAY, APRIL 16, 2008

4:18 O'CLOCK P.M.

NO. 147
[April 16, 2008]

SENATE
Daily Journal Index
147th Legislative Day

The Senate met pursuant to adjournment.
Honorable Emil Jones, Jr., President of the Senate, presiding.
Prayer by Senator David Koehler.
Senator Maloney led the Senate in the Pledge of Allegiance.

The Journal of Tuesday, April 15, 2008, was being read when on motion of Senator Hunter, further reading of same was dispensed with, and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

REPORTS RECEIVED

The Secretary placed before the Senate the following reports:

CMS 2007 Annual Flex Time Report, submitted by the Department of Central Management Services.

Institutional Services for Children with Developmental Disabilities, Severe Mental Illnesses and Severe Emotional Disorders, First Bi-Annual Report, March 2008, submitted by the Department of Human Services.

Independent Living 2007 Annual Report, submitted by the Department of Human Services.

The foregoing reports were ordered received and placed on file in the Secretary's Office.

LEGISLATIVE MEASURES FILED

The following Floor amendments to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Senate Floor Amendment No. 4 to Senate Bill 2181
Senate Floor Amendment No. 3 to Senate Bill 2865

The following Floor amendment to the Senate Joint Resolution listed below has been filed with the Secretary and referred to the Committee on Rules:

Senate Floor Amendment No. 1 to Senate Joint Resolution Constitutional Amendment No. 92

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION 650

Offered by Senator Koehler and all Senators:
Mourns the death of Catherine E. Carroll of Spokane Valley, formerly of Chatham.

SENATE RESOLUTION 651

Offered by Senator Koehler and all Senators:
Mourns the death of Walter C. Ratledge of Germantown Hills.

SENATE RESOLUTION 652

Offered by Senator Wilhelmi and all Senators:
Mourns the death of Richard McHugh of Joliet.

SENATE RESOLUTION 653

Offered by Senator Wilhelmi and all Senators:
Mourns the death of Francis "Shadow" Mudron of Joliet.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

Senator Garrett offered the following Senate Resolution, which was referred to the Committee on Rules:

SENATE RESOLUTION NO. 654

WHEREAS, The Open Space Lands Acquisition and Development Act (OSLAD) provides for grants to be disbursed by the Department of Natural Resources (DNR) to eligible local governments for the purpose of acquiring, developing, and/or rehabilitating lands for public outdoor recreation; and

WHEREAS, The Open Space Lands Acquisition and Development Fund (Fund) is used by the Department to make these grants to local governments, which are selected through an application process; and

WHEREAS, Through the program, local governments can obtain funding assistance up to 50% of approved project costs on a reimbursement basis; and

WHEREAS, Funded projects range from small neighborhood parks to large community and county parks and nature areas; and

WHEREAS, From FY05 to FY06, appropriations from the Fund increased by 4% but expenditures decreased by 29% and more projects are being reappropriated from one year to the next; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-FIFTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that the Auditor General is directed to conduct a management audit of the Open Space Lands Acquisition and Development program; and be it further

RESOLVED, That this performance audit include, but not be limited to, the following determinations:

(1) the number and dollar value of applications received for OSLAD grants between FY05 and FY07;

(2) the number and dollar value of OSLAD projects approved by DNR between FY05 and FY07;

(3) the number and dollar value of OSLAD projects completed during fiscal years 2005, 2006, and 2007;

(4) whether reimbursements from the State to local governments for OSLAD projects have been delayed and, if so, the reason or reasons for such delays;

(5) whether reimbursements from the State have been assigned a priority within the limits of the amounts appropriated for grants for Fiscal Years 2005, 2006, and 2007 and, if so, the criteria for such prioritizing; and

(6) the reason or reasons for increases in reappropriated projects between 2005 and 2007 and whether those increases are attributable to funding shortfalls or delays at the State; and be it further

RESOLVED, That the Department of Natural Resources and any other entity having information relevant to this audit cooperate fully and promptly with the Auditor General's Office in the conduct of this audit; and be it further

RESOLVED, That the Auditor General commence this audit as soon as possible and report his findings and recommendations upon completion in accordance with the provisions of Section 3-14 of the Illinois State Auditing Act; and be it further

RESOLVED, That a copy of this resolution be delivered to the Auditor General.

Senator Holmes offered the following Senate Resolution, which was referred to the Committee on Rules:

SENATE RESOLUTION NO. 655

WHEREAS, Fibromyalgia is a disease with uncertain cause and no known cure; this chronic condition affects an estimated seven to ten million people in the United States and many more millions of people worldwide; and

WHEREAS, Fibromyalgia is more likely to affect women, occurring nine times out of ten in women; and

WHEREAS, Fibromyalgia is a very serious and chronic illness, increasing at dramatic rates, causing those affected to suffer from fatigue and debilitating pain in the muscles, ligaments, and tendons; and

WHEREAS, People living with this condition learn to live with difficulty in performing everyday activities, such as climbing stairs, lifting weight, and performing other actions involving physical strain, and with widespread pain in muscles, joints, and ligaments; and

WHEREAS, People with fibromyalgia face discrimination in the workplace and from family and friends because so few people are aware or understand what fibromyalgia is and the symptoms with which it manifests; and

WHEREAS, A diagnosis of fibromyalgia is difficult and takes an average of five years because many of the symptoms mimic those of other disorders, resulting in the average person spending thousands of dollars in medical bills just to receive a diagnosis; and

WHEREAS, Public education is important in order for patients to receive proper diagnosis and treatment; public awareness will help to eliminate the myths, improve patient support, and encourage research; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-FIFTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we declare May 12, 2008 Fibromyalgia Awareness Day in the State of Illinois and all citizens are encouraged to support those seeking a cure for fibromyalgia and to assist those individuals and families who on a daily basis deal with this devastating disease.

Senator Koehler offered the following Senate Joint Resolution, which was referred to the Committee on Rules:

SENATE JOINT RESOLUTION NO. 94

WHEREAS, In an Act enacted by the Fifth General Assembly and approved on February 12, 1827, the road from Springfield to Peoria was declared a State Road; and

WHEREAS, The Springfield to Peoria Road became Illinois' major artery for trade, commerce, passenger stage and mail delivery in the early 19th century; and

WHEREAS, Abraham Lincoln traveled this road as an attorney in the Eighth Judicial Circuit and during his campaign for the Presidency and he also sponsored legislation affecting the road; and

WHEREAS, The description of the Trail is as follows: the route leading north from Springfield using present day nomenclature would be from the Springfield city street Peoria Road. This street joins with Business 55 and crosses the Sangamon River as Business 55. Before reaching the town of Sherman, the original route veers to the west side of Sherman onto Old Tipton School Road still heading north. At the

"T" intersection which is Andrew Road, the route turns west until the next intersection which is Illinois Route 124 heading north. The route continues north on Illinois Route 124 through the intersection of Illinois Route 123 and becomes Fancy Prairie Road. The route now enters Menard County. Continue north on Fancy Prairie Road until the road curves to the east with an intersection to the north. Turn north onto Peoria Road and continue north to a "T" intersection which is Middletown Blacktop. Turn east to the town of Middletown. The route is now in Logan County. The route leads north from Middletown connecting with the town of New Holland via 100th East Avenue. Leading north from New Holland on 100th East Avenue continue north until reaching Illinois Route 136. Turn east on Illinois Route 136 and continue to 300th East Avenue. Turn north on 300th East Avenue, which is Delavan Road and continue to the town of Delavan. The route is now in Tazewell County. Leading north from Delavan on Locust Street, continue until intersecting Springfield Road at Mackinaw Creek. The route continues north on Springfield Road passing through the village of Dillon and on to the town of Groveland. From Groveland continue on Springfield Road to the city of East Peoria. At East Peoria, Springfield Road connects with East Washington Street. Turning west on Washington Street which crosses the Illinois River on the Bob Michel Bridge, ending near the Franklin Street Bridge Monument in Riverfront Park in the City of Peoria; and

WHEREAS, The original trail is still intact today; it has made a significant contribution to the development of Springfield, Peoria, and all points in between; and in conjunction with the Abraham Lincoln Bicentennial, a special designation for this scenic and historic corridor is appropriate; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-FIFTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that the A. Lincoln and Springfield to Peoria Stage Road be designated along the route cited in this Resolution; and be it further

RESOLVED, That the Illinois Department of Transportation is requested, in consultation with the Lincoln Heritage Foundation of Logan County and others, to erect at suitable locations, consistent with State regulations, plaques or signs giving notice of the name; and be it further

RESOLVED, That units of local government that maintain any portion of the Road are urged to enhance areas along the road and to erect at suitable locations, plaques or signs that have been designed by the Illinois Department of Transportation in consultation with the Lincoln Heritage Foundation of Logan County and others that gives notice of the name; and be it further

RESOLVED, That the Illinois Historic Preservation Agency and the Illinois Bureau of Tourism are requested to post on their Agency websites, and to produce brochures and other related matter that makes the Road known to the public; and be it further

RESOLVED, That copies of this resolution be presented to the Illinois Secretary of Transportation, the Illinois Historic Preservation Agency, Illinois Bureau of Tourism, and the Lincoln Heritage Foundation of Logan County and each of the local governments having jurisdiction over any portion of the Road.

Senator Koehler offered the following Senate Joint Resolution, which was referred to the Committee on Rules:

SENATE JOINT RESOLUTION NO. 95

WHEREAS, Most employers have stopped offering traditional pensions benefits and fewer than half of all workers have not signed up for a 401(k) or other employer-sponsored retirement savings plan; and

WHEREAS, For nearly two-thirds of the elderly, Social Security provides the majority of their income; and

WHEREAS, Nearly half (45 percent) of all Americans believe that they have not saved enough for

retirement; and

WHEREAS, Most Americans (60 percent) are worried about being able to afford health insurance over the next year; and

WHEREAS, Over half (53 percent) of American adults report having to decrease savings and over one-third (37 percent) have had difficulty paying bills in order to pay for health care costs; and

WHEREAS, Partisan politics and ideological gridlock have divided our leaders and prevented reasonable, common sense, balanced solutions; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-FIFTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that we stand with AARP's Divided We Fail effort to amplify the voices of millions of Americans who believe that health care and lifetime financial security are the most pressing domestic issues facing our nation; and be it further

RESOLVED, That we stand together to call on every candidate seeking public office to provide a real plan of action and commitment to ensuring that all Americans have access to affordable, quality health care and peace of mind about their lifetime financial security; and be it further

RESOLVED, That the Illinois General Assembly supports AARP's Divided We Fail initiative; that we join in their efforts to generate millions of voices for change; and that we urge our leaders to deliver action and answers on health care and lifetime financial security.

REPORTS FROM STANDING COMMITTEES

Senator Cullerton and Senator Dillard, Chairpersons of the Committee on Judiciary Civil Law, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 3 to Senate Bill 1865

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Crotty, Chairperson of the Committee on Local Government, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 3 to Senate Bill 2033
Senate Amendment No. 3 to Senate Bill 2052
Senate Amendment No. 3 to Senate Bill 2181
Senate Amendment No. 2 to Senate Bill 2297
Senate Amendment No. 1 to Senate Bill 2733
Senate Amendment No. 1 to Senate Bill 2743

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Garrett, Chairperson of the Committee on Public Health, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to Senate Bill 1965
Senate Amendment No. 1 to Senate Bill 2155
Senate Amendment No. 2 to Senate Bill 2173
Senate Amendment No. 2 to Senate Bill 2300
Senate Amendment No. 2 to Senate Bill 2865

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Jacobs, Chairperson of the Committee on Housing and Community Affairs, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to Senate Bill 2721

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Wilhelmi, Chairperson of the Committee on Judiciary Criminal Law, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 3 to Senate Bill 2254
Senate Amendment No. 4 to Senate Bill 2275
Senate Amendment No. 2 to Senate Bill 2349
Senate Amendment No. 4 to Senate Bill 2349
Senate Amendment No. 3 to Senate Bill 2354
Senate Amendment No. 1 to Senate Bill 2355
Senate Amendment No. 3 to Senate Bill 2426
Senate Amendment No. 1 to Senate Bill 2476
Senate Amendment No. 2 to Senate Bill 2596
Senate Amendment No. 1 to Senate Bill 2657
Senate Amendment No. 1 to Senate Bill 2718
Senate Amendment No. 3 to Senate Bill 2855

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Raoul, Chairperson of the Committee on Pensions and Investments, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 2 to Senate Bill 1985

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred **Senate Joint Resolution No. 92,** reported the same back with the recommendation that the resolution be adopted.

Under the rules, **Senate Joint Resolution No. 92** was placed on the Secretary's Desk.

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred **Executive Order 08 – 01**, reported the same back with the recommendation be not aproved for consideration.

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to Senate Bill 2063
Senate Amendment No. 3 to Senate Bill 2113
Senate Amendment No. 1 to Senate Bill 2256
Senate Amendment No. 2 to Senate Bill 2399
Senate Amendment No. 4 to Senate Bill 2400
Senate Amendment No. 2 to Senate Bill 2472
Senate Amendment No. 1 to Senate Bill 2702
Senate Amendment No. 3 to Senate Bill 2707
Senate Amendment No. 4 to Senate Bill 2707

Senate Amendment No. 3 to House Bill 824
Senate Amendment No. 4 to House Bill 824

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Haine, Chairperson of the Committee on Insurance, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 2 to Senate Bill 2002
Senate Amendment No. 1 to Senate Bill 2499
Senate Amendment No. 2 to Senate Bill 2595

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Maloney, Chairperson of the Committee on Higher Education, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 5 to House Bill 1334

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Collins, Chairperson of the Committee on Financial Institutions, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 2 to Senate Bill 2513
Senate Amendment No. 1 to Senate Bill 2786

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Demuzio, Chairperson of the Committee on State Government and Veterans Affairs, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to Senate Bill 2626
Senate Amendment No. 1 to Senate Bill 2636
Senate Amendment No. 2 to Senate Bill 2636

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Harmon, Chairperson of the Committee on Revenue, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 2 to Senate Bill 801
Senate Amendment No. 3 to Senate Bill 2099
Senate Amendment No. 2 to Senate Bill 2584
Senate Amendment No. 1 to Senate Bill 2643
Senate Amendment No. 1 to Senate Bill 2820
Senate Amendment No. 1 to Senate Bill 2873
Senate Amendment No. 1 to Senate Bill 2874
Senate Amendment No. 2 to Senate Bill 2882
Senate Amendment No. 2 to Senate Bill 2912

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Sullivan, Chairperson of the Committee on Agriculture and Conservation, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 2 to Senate Bill 2562

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Meeks, Chairperson of the Committee on Human Services, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 2 to Senate Bill 1938
Senate Amendment No. 1 to Senate Bill 2112
Senate Amendment No. 1 to Senate Bill 2531
Senate Amendment No. 2 to Senate Bill 2552
Senate Amendment No. 1 to Senate Bill 2851
Senate Amendment No. 2 to Senate Bill 2879

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Clayborne, Chairperson of the Committee on Environment and Energy, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to Senate Bill 2079
Senate Amendment No. 1 to Senate Bill 2083
Senate Amendment No. 2 to Senate Bill 2313
Senate Amendment No. 2 to Senate Bill 2640
Senate Amendment No. 2 to Senate Bill 2783
Senate Amendment No. 3 to Senate Bill 2783

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Lightford, Chairperson of the Committee on Education, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 2 to Senate Bill 2091
Senate Amendment No. 3 to Senate Bill 2402
Senate Amendment No. 1 to Senate Bill 2638
Senate Amendment No. 1 to Senate Bill 2686
Senate Amendment No. 1 to Senate Bill 2687
Senate Amendment No. 1 to Senate Bill 2689

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Delgado, Chairperson of the Committee on Licensed Activities, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 2 to Senate Bill 1998
Senate Amendment No. 3 to Senate Bill 1998
Senate Amendment No. 2 to Senate Bill 2285
Senate Amendment No. 1 to Senate Bill 2696

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

MESSAGES FROM THE HOUSE

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has adopted the following joint resolution, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE JOINT RESOLUTION NO. 41

WHEREAS, Fetal Alcohol Spectrum Disorders (FASD) are the leading cause of mental retardation in western civilization, including the United States, and are 100% preventable; and

WHEREAS, The term FASD includes a broader range of conditions and therefore has replaced the term fetal alcohol syndrome as the umbrella term describing the range of effects that can occur in an individual whose mother consumed alcohol during pregnancy; and

WHEREAS, FASD are a major cause of numerous social disorders, including learning disabilities, school failure, juvenile delinquency, homelessness, unemployment, mental illness, and crime; and

WHEREAS, The incidence rate of fetal alcohol syndrome is estimated at one out of 500 live births and the incidence rate of fetal alcohol spectrum disorders is estimated at one out of every 100 live births; in Illinois, it is estimated that there are potentially 9,000 children born with FASD each year; and

WHEREAS, It is estimated that FASD alone can cost between one and 5 million dollars per child, not inclusive of societal costs associated with lost productivity, incarceration, and quality of life; and

WHEREAS, Learning and life skills affected by prenatal alcohol exposure vary among persons, depending on amount, timing, and pattern of exposure and on each person's current and past environments; as a result, services for people with FASD vary according to the parts of the brain that have been affected, the person's age or level of maturation, the health or functioning of the person's family, and the person's overall living environment; given the range of need, services must be individualized; and

WHEREAS, Children diagnosed with FASD consistently have lower IQs, have difficulty with behavior regulation, impulsivity, socialization, and poor judgment; and

WHEREAS, Early identification of the disability and proper school interventions can greatly increase the potential for success in school and in life; and

WHEREAS, Illinois does not currently have a statewide, coordinated response to FASD that includes data collection, educational services, and mental health services; and

WHEREAS, The estimated cost that each individual with fetal alcohol syndrome will cost taxpayers is significant; therefore, be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-FIFTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that we urge the Department of Human Services, in collaboration with the Departments of Children and Family Services, Healthcare and Family Services, Corrections, Financial Institutions and Professional Regulation, and the Illinois State Board of Education to complete an assessment of existing State and federal assistance programs that includes the following: conducting public hearings across the State to gather testimony from parents, educators, healthcare providers, clinicians, mental health providers, FASD service providers, and others regarding what services they feel need to be in place in this State to serve this unique population of children and adults; and be it further

RESOLVED, That the Illinois Department of Human Services shall issue a report highlighting the

findings of this Resolution's requirements and recommendations for improving Illinois' services to children, adults, and their families affected by FASD to the Governor and the General Assembly no later than January 2, 2008; and be it further

RESOLVED, That a copy of the report be sent to the Directors of the Departments of Children and Family Services, Healthcare and Family Services, Financial Institutions and Professional Regulation, and Corrections, the Superintendent of the Illinois State Board of Education, the Illinois General Assembly, the Office of the Governor, and the Governor's Office of Management and Budget.

Adopted by the House, June 5, 2007.

MARK MAHONEY, Clerk of the House

The foregoing message from the House of Representatives reporting House Joint Resolution No. 362 was referred to the Committee on Rules.

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed a bill of the following title, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 946
A bill for AN ACT concerning transportation.

HOUSE BILL NO. 4645
A bill for AN ACT concerning State government.

HOUSE BILL NO. 5368
A bill for AN ACT concerning military affairs.

HOUSE BILL NO. 5603
A bill for AN ACT concerning criminal law.

HOUSE BILL NO. 5954
A bill for AN ACT concerning regulation.

Passed the House, April 15, 2008.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 946, 4645, 5368, 5603 and 5954** were taken up, ordered printed and placed on first reading.

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed a bill of the following title, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 1809
A bill for AN ACT concerning liquor.

HOUSE BILL NO. 4264
A bill for AN ACT concerning regulation.

HOUSE BILL NO. 4931
A bill for AN ACT concerning local government.

HOUSE BILL NO. 5306
A bill for AN ACT concerning appropriations.

HOUSE BILL NO. 5363
A bill for AN ACT concerning criminal law.

HOUSE BILL NO. 5399
A bill for AN ACT concerning education.

HOUSE BILL NO. 5940
A bill for AN ACT concerning finance.

Passed the House, April 15, 2008.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 1809, 4264, 4931, 5306, 5363, 5399 and 5940** were taken up, ordered printed and placed on first reading.

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has passed a bill of the following title, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 2757
A bill for AN ACT concerning criminal law.
HOUSE BILL NO. 4471
A bill for AN ACT concerning children.
HOUSE BILL NO. 4505
A bill for AN ACT concerning local government.
HOUSE BILL NO. 4567
A bill for AN ACT concerning education.
HOUSE BILL NO. 4936
A bill for AN ACT concerning local government.
HOUSE BILL NO. 5684
A bill for AN ACT concerning civil law.
HOUSE BILL NO. 5865
A bill for AN ACT concerning regulation.
Passed the House, April 16, 2008.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 2757, 4471, 4505, 4567, 4936, 5684 and 5865** were taken up, ordered printed and placed on first reading.

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has passed a bill of the following title, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 4119
A bill for AN ACT concerning civil law.
HOUSE BILL NO. 4367
A bill for AN ACT concerning regulation.
HOUSE BILL NO. 4545
A bill for AN ACT concerning local government.
HOUSE BILL NO. 4694
A bill for AN ACT concerning transportation.
HOUSE BILL NO. 4879
A bill for AN ACT concerning criminal law.
HOUSE BILL NO. 5188
A bill for AN ACT concerning education.
Passed the House, April 16, 2008.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 4119, 4367, 4545, 4694, 4879 and 5188** were taken up, ordered printed and placed on first reading.

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed a bill of the following title, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 4196
A bill for AN ACT concerning civil law.
HOUSE BILL NO. 4518
A bill for AN ACT concerning libraries.
HOUSE BILL NO. 4618
A bill for AN ACT concerning local government.
HOUSE BILL NO. 5151
A bill for AN ACT concerning appropriations.
HOUSE BILL NO. 5307
A bill for AN ACT concerning regulation.
HOUSE BILL NO. 5868
A bill for AN ACT concerning health.
HOUSE BILL NO. 5906
A bill for AN ACT concerning State government.
Passed the House, April 15, 2008.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 4196, 4518, 4618, 5151, 5307, 5868 and 5906** were taken up, ordered printed and placed on first reading.

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed a bill of the following title, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 4207
A bill for AN ACT concerning criminal law.
HOUSE BILL NO. 4221
A bill for AN ACT concerning transportation.
HOUSE BILL NO. 4646
A bill for AN ACT concerning local government.
HOUSE BILL NO. 4724
A bill for AN ACT concerning State government.
HOUSE BILL NO. 4956
A bill for AN ACT concerning courts.
HOUSE BILL NO. 5121
A bill for AN ACT concerning civil law.
Passed the House, April 16, 2008.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 4207, 4221, 4646, 4724, 4956 and 5121** were taken up, ordered printed and placed on first reading.

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed a bill of the following title, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 4402
A bill for AN ACT concerning criminal law.

HOUSE BILL NO. 4454
A bill for AN ACT concerning revenue.
HOUSE BILL NO. 4877
A bill for AN ACT concerning criminal law.
HOUSE BILL NO. 5013
A bill for AN ACT making appropriations.
HOUSE BILL NO. 5074
A bill for AN ACT concerning education.
HOUSE BILL NO. 5108
A bill for AN ACT concerning transportation.
Passed the House, April 15, 2008.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 4402, 4454, 4877, 5013, 5074 and 5108** were taken up, ordered printed and placed on first reading.

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has passed a bill of the following title, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 4426
A bill for AN ACT concerning waste gasification.
HOUSE BILL NO. 4668
A bill for AN ACT concerning safety.
HOUSE BILL NO. 4674
A bill for AN ACT concerning local government.
HOUSE BILL NO. 4814
A bill for AN ACT making appropriations.
HOUSE BILL NO. 4921
A bill for AN ACT making appropriations.
HOUSE BILL NO. 5318
A bill for AN ACT concerning regulation.
HOUSE BILL NO. 5773
A bill for AN ACT concerning environmental safety.
HOUSE BILL NO. 5882
A bill for AN ACT making appropriations.
Passed the House, April 16, 2008.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 4426, 4668, 4674, 4814, 4921, 5318, 5773 and 5882** were taken up, ordered printed and placed on first reading.

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has passed a bill of the following title, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 5195
A bill for AN ACT concerning local government.
HOUSE BILL NO. 5905
A bill for AN ACT concerning education.
HOUSE BILL NO. 5909
A bill for AN ACT concerning criminal law.
HOUSE BILL NO. 5928

A bill for AN ACT concerning health.

HOUSE BILL NO. 5953

A bill for AN ACT concerning State government.

Passed the House, April 16, 2008.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 5195, 5905, 5909, 5928 and 5953** were taken up, ordered printed and placed on first reading.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 782

A bill for AN ACT concerning State government.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 782

Passed the House, as amended, April 16, 2008.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 782

AMENDMENT NO. 1. Amend Senate Bill 782 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Veterans' Health Insurance Program Act of 2008.

Section 3. Legislative intent. The General Assembly finds that those who have served their country honorably in military service and who are residing in this State deserve access to affordable, comprehensive health insurance. Many veterans are uninsured and unable to afford healthcare. This lack of healthcare, including preventative care, often exacerbates health conditions. The effects of lack of insurance negatively impact those residents of the State who are insured because the cost of paying for care to the uninsured is often shifted to those who have insurance in the form of higher health insurance premiums. It is, therefore, the intent of this legislation to provide access to affordable health insurance for veterans residing in Illinois who are unable to afford such coverage. However, the State has only a limited amount of resources, and the General Assembly therefore declares that while it intends to cover as many such veterans as possible, the State may not be able to cover every eligible person who qualifies for this Program as a matter of entitlement due to limited funding.

Section 5. Definitions. The following words have the following meanings:

"Department" means the Department of Healthcare and Family Services, or any successor agency.

"Director" means the Director of Healthcare and Family Services, or any successor agency.

"Medical assistance" means health care benefits provided under Article V of the Illinois Public Aid Code.

"Program" means the Veterans' Health Insurance Program.

"Resident" means an individual who has an Illinois residence, as provided in Section 5-3 of the Illinois Public Aid Code.

"Veteran" means any person who has served in a branch of the United States military for greater than 180 consecutive days after initial training.

"Veterans' Affairs" or "VA" means the United States Department of Veterans' Affairs.

Section 10. Operation of the Program.

(a) The Veterans' Health Insurance Program is created. This Program is not an entitlement. Enrollment is based on the availability of funds, and enrollment may be capped based on funds appropriated for the Program. As soon as practical after the effective date of this Act, coverage for this Program shall begin.

The Program shall be administered by the Department of Healthcare and Family Services in collaboration with the Department of Veterans' Affairs. The Department shall have the same powers and authority to administer the Program as are provided to the Department in connection with the Department's administration of the Illinois Public Aid Code. The Department shall coordinate the Program with other health programs operated by the Department and other State and federal agencies.

(b) The Department shall operate the Program in a manner so that the estimated cost of the Program during the fiscal year will not exceed the total appropriation for the Program. The Department may take any appropriate action to limit spending or enrollment into the Program, including, but not limited to, ceasing to accept or process applications, reviewing eligibility more frequently than annually, adjusting cost-sharing, or reducing the income threshold for eligibility as necessary to control expenditures for the Program.

Section 15. Eligibility.

(a) To be eligible for the Program, a person must:

(1) be a veteran who is not on active duty and who has not been dishonorably discharged from service;

(2) be a resident of the State of Illinois;

(3) be at least 19 years of age and no older than 64 years of age;

(4) be uninsured, as defined by the Department by rule, for a period of time established by the Department by rule, which shall be no less than 6 months;

(5) not be eligible for medical assistance under the Illinois Public Aid Code;

(6) not be eligible for medical benefits through the Veterans Health Administration; and

(7) have a household income no greater than the sum of (i) an amount equal to 25% of the federal poverty level plus (ii) an amount equal to the Veterans Administration means test income threshold at the initiation of the Program; depending on the availability of funds, this level may be increased to an amount equal to the sum of (iii) an amount equal to 50% of the federal poverty level plus (iv) an amount equal to the Veterans Administration means test income threshold. This means test income threshold is subject to alteration by the Department as set forth in subsection (b) of Section 10.

(b) A veteran who is determined eligible for the Program shall remain eligible for 12 months, provided the veteran remains a resident of the State and is not excluded under subsection (c) of this Section and provided the Department has not limited the enrollment period as set forth in subsection (b) of Section 10.

(c) A veteran is not eligible for coverage under the Program if:

(1) the premium required under Section 35 of this Act has not been timely paid; if the required premiums are not paid, the liability of the Program shall be limited to benefits incurred under the Program for the time period for which premiums have been paid and for grace periods as established under subsection (d); if the required monthly premium is not paid, the veteran is ineligible for re-enrollment for a minimum period of 3 months; or

(2) the veteran is a resident of a nursing facility or an inmate of a public institution, as defined by 42 CFR 435.1009.

(d) The Department shall adopt rules for the Program, including, but not limited to, rules relating to eligibility, re-enrollment, grace periods, notice requirements, hearing procedures, cost-sharing, covered services, and provider requirements.

Section 20. Notice of decisions to terminate eligibility. Whenever the Department decides to either deny or terminate eligibility under this Act, the veteran shall have a right to notice and a hearing, as provided by the Department by rule.

Section 25. Illinois Department of Veterans' Affairs. The Department shall coordinate with the Illinois Department of Veterans' Affairs and the Veterans Assistance Commissions to allow State Veterans' Affairs service officers and the Veterans Assistance Commissions to assist veterans to apply for the Program. All applicants must be reviewed for Veterans Health Administration eligibility or other existing health benefits prior to consideration for the Program.

Section 30. Health care benefits.

(a) For veterans eligible and enrolled, the Department shall purchase or provide health care benefits for eligible veterans that are identical to the benefits provided to adults under the State's approved plan

under Title XIX of the Social Security Act, except for nursing facility services and non-emergency transportation.

(b) Providers shall be subject to approval by the Department to provide health care under the Illinois Public Aid Code and shall be reimbursed at the same rates as providers reimbursed under the State's approved plan under Title XIX of the Social Security Act.

(c) As an alternative to the benefits set forth in subsection (a) of this Section, and when cost-effective, the Department may offer veterans subsidies toward the cost of privately sponsored health insurance, including employer-sponsored health insurance.

Section 35. Cost-sharing. The Department, by rule, shall set forth requirements concerning co-payments and monthly premiums for health care services. This cost-sharing shall be based on household income, as defined by the Department by rule, and is subject to alteration by the Department as set forth in subsection (b) of Section 10.

Section 40. Charge upon claims and causes of action; right of subrogation; recoveries. Sections 11-22, 11-22a, 11-22b, and 11-22c of the Illinois Public Aid Code apply to health benefits provided to veterans under this Act, as provided in those Sections.

Section 45. Reporting. The Department shall prepare an annual report for submission to the General Assembly. The report shall be due to the General Assembly by January 1 of each year beginning in 2009. This report shall include information regarding implementation of the Program, including the number of veterans enrolled and any available information regarding other benefits derived from the Program, including screening for and acquisition of other veterans' benefits through the Veterans' Service Officers and the Veterans' Assistance Commissions. This report may also include recommendations regarding improvements that may be made to the Program and regarding the extension of the repeal date set forth in Section 85 of this Act.

Section 50. Emergency rulemaking. The Department may adopt rules necessary to establish and implement this Act through the use of emergency rulemaking in accordance with Section 5-45 of the Illinois Administrative Procedure Act. For the purposes of that Act, the General Assembly finds that the adoption of rules to implement this Act is deemed an emergency and necessary for the public interest, safety, and welfare.

Section 85. Repeal. This Act is repealed on January 1, 2012.

Section 90. The Illinois Public Aid Code is amended by changing Sections 11-22, 11-22a, 11-22b, and 11-22c as follows:

(305 ILCS 5/11-22) (from Ch. 23, par. 11-22)

Sec. 11-22. Charge upon claims and causes of action for injuries. The Illinois Department shall have a charge upon all claims, demands and causes of action for injuries to an applicant for or recipient of (i) financial aid under Articles III, IV, and V, (ii) health care benefits provided under the Covering ALL KIDS Health Insurance Act, or (iii) health care benefits provided under the Veterans' Health Insurance Program Act <u>or the Veterans' Health Insurance Program Act of 2008</u> for the total amount of medical assistance provided the recipient from the time of injury to the date of recovery upon such claim, demand or cause of action. In addition, if the applicant or recipient was employable, as defined by the Department, at the time of the injury, the Department shall also have a charge upon any such claims, demands and causes of action for the total amount of aid provided to the recipient and his dependents, including all cash assistance and medical assistance only to the extent includable in the claimant's action, from the time of injury to the date of recovery upon such claim, demand or cause of action. Any definition of "employable" adopted by the Department shall apply only to persons above the age of compulsory school attendance.

If the injured person was employable at the time of the injury and is provided aid under Articles III, IV, or V and any dependent or member of his family is provided aid under Article VI, or vice versa, both the Illinois Department and the local governmental unit shall have a charge upon such claims, demands and causes of action for the aid provided to the injured person and any dependent member of his family, including all cash assistance, medical assistance and food stamps, from the time of the injury to the date of recovery.

"Recipient", as used herein, means (i) in the case of financial aid provided under this Code, the grantee of record and any persons whose needs are included in the financial aid provided to the grantee

of record or otherwise met by grants under the appropriate Article of this Code for which such person is eligible, (ii) in the case of health care benefits provided under the Covering ALL KIDS Health Insurance Act, the child to whom those benefits are provided, and (iii) in the case of health care benefits provided under the Veterans' Health Insurance Program Act or the Veterans' Health Insurance Program Act of 2008, the veteran to whom benefits are provided.

In each case, the notice shall be served by certified mail or registered mail, upon the party or parties against whom the applicant or recipient has a claim, demand or cause of action. The notice shall claim the charge and describe the interest the Illinois Department, the local governmental unit, or the county, has in the claim, demand, or cause of action. The charge shall attach to any verdict or judgment entered and to any money or property which may be recovered on account of such claim, demand, cause of action or suit from and after the time of the service of the notice.

On petition filed by the Illinois Department, or by the local governmental unit or county if either is claiming a charge, or by the recipient, or by the defendant, the court, on written notice to all interested parties, may adjudicate the rights of the parties and enforce the charge. The court may approve the settlement of any claim, demand or cause of action either before or after a verdict, and nothing in this Section shall be construed as requiring the actual trial or final adjudication of any claim, demand or cause of action upon which the Illinois Department, the local governmental unit or county has charge. The court may determine what portion of the recovery shall be paid to the injured person and what portion shall be paid to the Illinois Department, the local governmental unit or county having a charge against the recovery. In making this determination, the court shall conduct an evidentiary hearing and shall consider competent evidence pertaining to the following matters:

(1) the amount of the charge sought to be enforced against the recovery when expressed as a percentage of the gross amount of the recovery; the amount of the charge sought to be enforced against the recovery when expressed as a percentage of the amount obtained by subtracting from the gross amount of the recovery the total attorney's fees and other costs incurred by the recipient incident to the recovery; and whether the Department, unit of local government or county seeking to enforce the charge against the recovery should as a matter of fairness and equity bear its proportionate share of the fees and costs incurred to generate the recovery from which the charge is sought to be satisfied;

(2) the amount, if any, of the attorney's fees and other costs incurred by the recipient incident to the recovery and paid by the recipient up to the time of recovery, and the amount of such fees and costs remaining unpaid at the time of recovery;

(3) the total hospital, doctor and other medical expenses incurred for care and treatment of the injury to the date of recovery therefor, the portion of such expenses theretofore paid by the recipient, by insurance provided by the recipient, and by the Department, unit of local government and county seeking to enforce a charge against the recovery, and the amount of such previously incurred expenses which remain unpaid at the time of recovery and by whom such incurred, unpaid expenses are to be paid;

(4) whether the recovery represents less than substantially full recompense for the injury and the hospital, doctor and other medical expenses incurred to the date of recovery for the care and treatment of the injury, so that reduction of the charge sought to be enforced against the recovery would not likely result in a double recovery or unjust enrichment to the recipient;

(5) the age of the recipient and of persons dependent for support upon the recipient, the nature and permanency of the recipient's injuries as they affect not only the future employability and education of the recipient but also the reasonably necessary and foreseeable future material, maintenance, medical, rehabilitative and training needs of the recipient, the cost of such reasonably necessary and foreseeable future needs, and the resources available to meet such needs and pay such costs;

(6) the realistic ability of the recipient to repay in whole or in part the charge sought to be enforced against the recovery when judged in light of the factors enumerated above.

The burden of producing evidence sufficient to support the exercise by the court of its discretion to reduce the amount of a proven charge sought to be enforced against the recovery shall rest with the party seeking such reduction.

The court may reduce and apportion the Illinois Department's lien proportionate to the recovery of the claimant. The court may consider the nature and extent of the injury, economic and noneconomic loss, settlement offers, comparative negligence as it applies to the case at hand, hospital costs, physician costs, and all other appropriate costs. The Illinois Department shall pay its pro rata share of the attorney fees based on the Illinois Department's lien as it compares to the total settlement agreed upon. This Section shall not affect the priority of an attorney's lien under the Attorneys Lien Act. The charges of the Illinois Department described in this Section, however, shall take priority over all other liens and charges

existing under the laws of the State of Illinois with the exception of the attorney's lien under said statute.

Whenever the Department or any unit of local government has a statutory charge under this Section against a recovery for damages incurred by a recipient because of its advancement of any assistance, such charge shall not be satisfied out of any recovery until the attorney's claim for fees is satisfied, irrespective of whether or not an action based on recipient's claim has been filed in court.

This Section shall be inapplicable to any claim, demand or cause of action arising under (a) the Workers' Compensation Act or the predecessor Workers' Compensation Act of June 28, 1913, (b) the Workers' Occupational Diseases Act or the predecessor Workers' Occupational Diseases Act of March 16, 1936; and (c) the Wrongful Death Act.

(Source: P.A. 94-693, eff. 7-1-06; 94-816, eff. 5-30-06.)

(305 ILCS 5/11-22a) (from Ch. 23, par. 11-22a)

Sec. 11-22a. Right of Subrogation. To the extent of the amount of (i) medical assistance provided by the Department to or on behalf of a recipient under Article V or VI, (ii) health care benefits provided for a child under the Covering ALL KIDS Health Insurance Act, or (iii) health care benefits provided to a veteran under the Veterans' Health Insurance Program Act or the Veterans' Health Insurance Program Act of 2008, the Department shall be subrogated to any right of recovery such recipient may have under the terms of any private or public health care coverage or casualty coverage, including coverage under the "Workers' Compensation Act", approved July 9, 1951, as amended, or the "Workers' Occupational Diseases Act", approved July 9, 1951, as amended, without the necessity of assignment of claim or other authorization to secure the right of recovery to the Department. To enforce its subrogation right, the Department may (i) intervene or join in an action or proceeding brought by the recipient, his or her guardian, personal representative, estate, dependents, or survivors against any person or public or private entity that may be liable; (ii) institute and prosecute legal proceedings against any person or public or private entity that may be liable for the cost of such services; or (iii) institute and prosecute legal proceedings, to the extent necessary to reimburse the Illinois Department for its costs, against any noncustodial parent who (A) is required by court or administrative order to provide insurance or other coverage of the cost of health care services for a child eligible for medical assistance under this Code and (B) has received payment from a third party for the costs of those services but has not used the payments to reimburse either the other parent or the guardian of the child or the provider of the services.

(Source: P.A. 94-693, eff. 7-1-06; 94-816, eff. 5-30-06.)

(305 ILCS 5/11-22b) (from Ch. 23, par. 11-22b)

Sec. 11-22b. Recoveries.

(a) As used in this Section:

(1) "Carrier" means any insurer, including any private company, corporation, mutual association, trust fund, reciprocal or interinsurance exchange authorized under the laws of this State to insure persons against liability or injuries caused to another and any insurer providing benefits under a policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance or use of a motor vehicle which provides uninsured motorist endorsement or coverage.

(2) "Beneficiary" means any person or their dependents who has received benefits or will be provided benefits under this Code, under the Covering ALL KIDS Health Insurance Act, or under the Veterans' Health Insurance Program Act or the Veterans' Health Insurance Program Act of 2008 because of an injury for which another person may be liable. It includes such beneficiary's guardian, conservator or other personal representative, his estate or survivors.

(b)(1) When benefits are provided or will be provided to a beneficiary under this Code, under the Covering ALL KIDS Health Insurance Act, or under the Veterans' Health Insurance Program Act or the Veterans' Health Insurance Program Act of 2008 because of an injury for which another person is liable, or for which a carrier is liable in accordance with the provisions of any policy of insurance issued pursuant to the Illinois Insurance Code, the Illinois Department shall have a right to recover from such person or carrier the reasonable value of benefits so provided. The Attorney General may, to enforce such right, institute and prosecute legal proceedings against the third person or carrier who may be liable for the injury in an appropriate court, either in the name of the Illinois Department or in the name of the injured person, his guardian, personal representative, estate, or survivors.

(2) The Department may:

(A) compromise or settle and release any such claim for benefits provided under this Code, or

(B) waive any such claims for benefits provided under this Code, in whole or in part, for the convenience of the Department or if the Department determines that collection would result in undue hardship upon the person who suffered the injury or, in a wrongful death action, upon the heirs of the deceased.

(3) No action taken on behalf of the Department pursuant to this Section or any judgment rendered in such action shall be a bar to any action upon the claim or cause of action of the beneficiary, his guardian, conservator, personal representative, estate, dependents or survivors against the third person who may be liable for the injury, or shall operate to deny to the beneficiary the recovery for that portion of any damages not covered hereunder.

(c)(1) When an action is brought by the Department pursuant to subsection (b), it shall be commenced within the period prescribed by Article XIII of the Code of Civil Procedure.

However, the Department may not commence the action prior to 5 months before the end of the applicable period prescribed by Article XIII of the Code of Civil Procedure. Thirty days prior to commencing an action, the Department shall notify the beneficiary of the Department's intent to commence such an action.

(2) The death of the beneficiary does not abate any right of action established by subsection (b).

(3) When an action or claim is brought by persons entitled to bring such actions or assert such claims against a third person who may be liable for causing the death of a beneficiary, any settlement, judgment or award obtained is subject to the Department's claim for reimbursement of the benefits provided to the beneficiary under this Code, under the Covering ALL KIDS Health Insurance Act, or under the Veterans' Health Insurance Program Act or the Veterans' Health Insurance Program Act of 2008.

(4) When the action or claim is brought by the beneficiary alone and the beneficiary incurs a personal liability to pay attorney's fees and costs of litigation, the Department's claim for reimbursement of the benefits provided to the beneficiary shall be the full amount of benefits paid on behalf of the beneficiary under this Code, under the Covering ALL KIDS Health Insurance Act, or under the Veterans' Health Insurance Program Act or the Veterans' Health Insurance Program Act of 2008 less a pro rata share which represents the Department's reasonable share of attorney's fees paid by the beneficiary and that portion of the cost of litigation expenses determined by multiplying by the ratio of the full amount of the expenditures of the full amount of the judgment, award or settlement.

(d)(1) If either the beneficiary or the Department brings an action or claim against such third party or carrier, the beneficiary or the Department shall within 30 days of filing the action give to the other written notice by personal service or registered mail of the action or claim and of the name of the court in which the action or claim is brought. Proof of such notice shall be filed in such action or claim. If an action or claim is brought by either the Department or the beneficiary, the other may, at any time before trial on the facts, become a party to such action or claim or shall consolidate his action or claim with the other if brought independently.

(2) If an action or claim is brought by the Department pursuant to subsection (b)(1), written notice to the beneficiary, guardian, personal representative, estate or survivor given pursuant to this Section shall advise him of his right to intervene in the proceeding, his right to obtain a private attorney of his choice and the Department's right to recover the reasonable value of the benefits provided.

(e) In the event of judgment or award in a suit or claim against such third person or carrier:

(1) If the action or claim is prosecuted by the beneficiary alone, the court shall first order paid from any judgment or award the reasonable litigation expenses incurred in preparation and prosecution of such action or claim, together with reasonable attorney's fees, when an attorney has been retained. After payment of such expenses and attorney's fees the court shall, on the application of the Department, allow as a first lien against the amount of such judgment or award the amount of the Department's expenditures for the benefit of the beneficiary under this Code, under the Covering ALL KIDS Health Insurance Act, or under the Veterans' Health Insurance Program Act or the Veterans' Health Insurance Program Act of 2008, as provided in subsection (c)(4).

(2) If the action or claim is prosecuted both by the beneficiary and the Department, the court shall first order paid from any judgment or award the reasonable litigation expenses incurred in preparation and prosecution of such action or claim, together with reasonable attorney's fees for plaintiffs attorneys based solely on the services rendered for the benefit of the beneficiary. After payment of such expenses and attorney's fees, the court shall apply out of the balance of such judgment or award an amount sufficient to reimburse the Department the full amount of benefits paid on behalf of the beneficiary under this Code, under the Covering ALL KIDS Health Insurance Act, or under the Veterans' Health Insurance Program Act or the Veterans' Health Insurance Program Act of 2008.

(f) The court shall, upon further application at any time before the judgment or award is satisfied, allow as a further lien the amount of any expenditures of the Department in payment of additional

benefits arising out of the same cause of action or claim provided on behalf of the beneficiary under this Code, under the Covering ALL KIDS Health Insurance Act, or under the Veterans' Health Insurance Program Act or the Veterans' Health Insurance Program Act of 2008, when such benefits were provided or became payable subsequent to the original order.

(g) No judgment, award, or settlement in any action or claim by a beneficiary to recover damages for injuries, when the Department has an interest, shall be satisfied without first giving the Department notice and a reasonable opportunity to perfect and satisfy its lien.

(h) When the Department has perfected a lien upon a judgment or award in favor of a beneficiary against any third party for an injury for which the beneficiary has received benefits under this Code, under the Covering ALL KIDS Health Insurance Act, or under the Veterans' Health Insurance Program Act or the Veterans' Health Insurance Program Act of 2008, the Department shall be entitled to a writ of execution as lien claimant to enforce payment of said lien against such third party with interest and other accruing costs as in the case of other executions. In the event the amount of such judgment or award so recovered has been paid to the beneficiary, the Department shall be entitled to a writ of execution against such beneficiary to the extent of the Department's lien, with interest and other accruing costs as in the case of other executions.

(i) Except as otherwise provided in this Section, notwithstanding any other provision of law, the entire amount of any settlement of the injured beneficiary's action or claim, with or without suit, is subject to the Department's claim for reimbursement of the benefits provided and any lien filed pursuant thereto to the same extent and subject to the same limitations as in Section 11-22 of this Code.

(Source: P.A. 94-693, eff. 7-1-06; 94-816, eff. 5-30-06.)

(305 ILCS 5/11-22c) (from Ch. 23, par. 11-22c)

Sec. 11-22c. Recovery of back wages.

(a) As used in this Section, "recipient" means any person receiving financial assistance under Article IV or Article VI of this Code, receiving health care benefits under the Covering ALL KIDS Health Insurance Act, or receiving health care benefits under the Veterans' Health Insurance Program Act or the Veterans' Health Insurance Program Act of 2008.

(b) If a recipient maintains any suit, charge or other court or administrative action against an employer seeking back pay for a period during which the recipient received financial assistance under Article IV or Article VI of this Code, health care benefits under the Covering ALL KIDS Health Insurance Act, or health care benefits under the Veterans' Health Insurance Program Act or the Veterans' Health Insurance Program Act of 2008, the recipient shall report such fact to the Department. To the extent of the amount of assistance provided to or on behalf of the recipient under Article IV or Article VI, health care benefits provided under the Covering ALL KIDS Health Insurance Act, or health care benefits provided under the Veterans' Health Insurance Program Act or the Veterans' Health Insurance Program Act of 2008, the Department may by intervention or otherwise without the necessity of assignment of claim, attach a lien on the recovery of back wages equal to the amount of assistance provided by the Department to the recipient under Article IV or Article VI, under the Covering ALL KIDS Health Insurance Act, or under the Veterans' Health Insurance Program Act or the Veterans' Health Insurance Program Act of 2008.

(Source: P.A. 94-693, eff. 7-1-06; 94-816, eff. 5-30-06.)

Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

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

Under the rules, the foregoing **Senate Bill No. 782**, with House Amendment No. 1, was referred to the Secretary's Desk.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

House Bill No. 946, sponsored by Senator Watson, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 3286, sponsored by Senator Righter, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 3677, sponsored by Senator Martinez, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4132, sponsored by Senator J. Jones, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4159, sponsored by Senator Murphy, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4175, sponsored by Senator Garrett, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4206, sponsored by Senator Burzynski, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4223, sponsored by Senator Collins, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4251, sponsored by Senator Brady, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4252, sponsored by Senator Syverson, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4264, sponsored by Senator Link, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4291, sponsored by Senator Martinez, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4352, sponsored by Senator Munoz, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4454, sponsored by Senator Link, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4523, sponsored by Senator Lightford, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4720, sponsored by Senator Althoff, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4726, sponsored by Senator Bivins, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4793, sponsored by Senator Clayborne, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4811, sponsored by Senator Demuzio, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 4931, sponsored by Senator Kotowski, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5013, sponsored by Senator Hultgren, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5022, sponsored by Senator Haine, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5066, sponsored by Senator Delgado, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5074, sponsored by Senator Demuzio, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5082, sponsored by Senator Wilhelmi, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5093, sponsored by Senator Haine, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5240, sponsored by Senator Garrett, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5306, sponsored by Senator Delgado, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5307, sponsored by Senator Maloney, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5323, sponsored by Senator Haine, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5325, sponsored by Senator Demuzio, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5350, sponsored by Senator Hunter, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5368, sponsored by Senator Kotowski, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5399, sponsored by Senator Sullivan, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5494, sponsored by Senator Link, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5524, sponsored by Senator Millner, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5596, sponsored by Senator Althoff, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5599, sponsored by Senator Millner, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5603, sponsored by Senator Dillard, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5650, sponsored by Senator Delgado, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5653, sponsored by Senator Bivins, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 5868, sponsored by Senator Cullerton, was taken up, read by title a first time and referred to the Committee on Rules.

INTRODUCTION OF BILL

SENATE BILL NO. 3032. Introduced by Senator Radogno, a bill for AN ACT concerning regulation.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

LEGISLATIVE MEASURES FILED

The following Floor amendments to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Senate Floor Amendment No. 2 to Senate Joint Resolution Constitutional Amendment No. 92

Senate Floor Amendment No. 1 to Senate Bill 2305
Senate Floor Amendment No. 3 to Senate Bill 2472
Senate Floor Amendment No. 2 to Senate Bill 2702

READING BILLS OF THE SENATE A SECOND TIME

On motion of Senator Noland, **Senate Bill No. 1865** having been printed, was taken up, read by title a second time.

Senate Floor Amendment No. 1 was held in the Committee on Judiciary-Civil Law.

Senate Floor Amendment No. 2 was held in the Committee on Rules.

Senator Noland offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 1865

AMENDMENT NO. 3. Amend Senate Bill 1865, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Parental Responsibility Law is amended by changing Sections 3 and 5 as follows:

(740 ILCS 115/3) (from Ch. 70, par. 53)

Sec. 3. Liability. The parent or legal guardian of an unemancipated minor who resides with such parent or legal guardian is liable for actual damages for the wilful or malicious acts of such minor which cause injury to a person or property, including damages caused by a minor who has been adjudicated a delinquent for violating Section 21-1.3 of the Criminal Code of 1961. Reasonable attorney's fees may be awarded to any ~~a~~ plaintiff ~~that is not a governmental unit~~ in any action under this Act. If the plaintiff is a governmental unit, reasonable attorney's fees may be awarded up to $15,000.

The changes to this Section made by this amendatory Act of the 95th General Assembly apply to causes of action accruing on or after its effective date.

(Source: P.A. 90-311, eff. 1-1-98.)

(740 ILCS 115/5) (from Ch. 70, par. 55)

Sec. 5. Limitation on damages; damages allowable. No recovery under this Act may exceed $20,000 actual damages for each person, or legal entity as provided in Section 4 of this Act, for the first act or ~~each~~ occurrence of such wilful or malicious acts by the minor causing injury, and $30,000 if a pattern or practice of wilful or malicious acts by a minor exists for a separate act or occurrence, in addition to taxable court costs and attorney's fees. In determining the damages to be allowed in an action under this Act for personal injury, only medical, dental and hospital expenses and expenses for treatment by Christian Science practitioners and nursing care appropriate thereto may be considered.

The changes to this Section made by this amendatory Act of the 95th General Assembly apply to causes of action accruing on or after its effective date.

(Source: P.A. 94-130, eff. 7-7-05.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Cullerton, **Senate Bill No. 1869,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Collins, **Senate Bill No. 1879** having been printed, was taken up, read by title a second time.

The following amendments were offered in the Committee on Financial Institutions, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 1879

AMENDMENT NO. 1. Amend Senate Bill 1879 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Human Rights Act is amended by changing Section 10-104 as follows:

(775 ILCS 5/10-104)

Sec. 10-104. Circuit Court Actions by the Illinois Attorney General.

(A) Standing, venue, limitations on actions, preliminary investigations, notice, and Assurance of Voluntary Compliance.

(1) Whenever the Illinois Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern and practice of discrimination prohibited by this Act, the Illinois Attorney General may commence a civil action in the name of the People of the State, as parens patriae on behalf of persons within the State to enforce the provisions of this Act in any appropriate circuit court. Venue for this civil action shall be determined under Section 8-111(B)(6). Such actions shall be commenced no later than 2 years after the occurrence or the termination of an alleged civil rights violation or the breach of a conciliation agreement or Assurance of Voluntary Compliance entered into under this Act, whichever occurs last, to obtain relief with respect to the alleged civil rights violation or breach.

(2) Prior to initiating a civil action, the Attorney General shall conduct a preliminary investigation to determine whether there is reasonable cause to believe that any person or group of persons is engaged in a pattern and practice of discrimination declared unlawful by this Act and whether the dispute can be resolved without litigation. In conducting this investigation, the Attorney General may:

(a) require the individual or entity to file a statement or report in writing under oath or otherwise, as to all information the Attorney General may consider necessary;

(b) examine under oath any person alleged to have participated in or with knowledge of the alleged pattern and practice violation; or

(c) issue subpoenas or conduct hearings in aid of any investigation.

(3) Service by the Attorney General of any notice requiring a person to file a statement or report, or of a subpoena upon any person, shall be made:

(a) personally by delivery of a duly executed copy thereof to the person to be served or, if a person is not a natural person, in the manner provided in the Code of Civil Procedure when a complaint is filed; or

(b) by mailing by certified mail a duly executed copy thereof to the person to be served at his or her last known abode or principal place of business within this State.

(4) In lieu of a civil action, the individual or entity alleged to have engaged in a pattern or practice of discrimination deemed violative of this Act may enter into an Assurance of Voluntary Compliance with respect to the alleged pattern or practice violation.

(5) The Illinois Attorney General may commence a civil action under this subsection (A) whether or not a charge has been filed under Sections 7A-102 or 7B-102 and without regard to the status of any charge, however, if the Department or local agency has obtained a conciliation or settlement agreement or if the parties have entered into an Assurance of Voluntary Compliance no action may be filed under this subsection (A) with respect to the alleged civil rights violation practice that forms the basis for the complaint except for the purpose of enforcing the terms of the conciliation or settlement agreement or the terms of the Assurance of Voluntary Compliance.

(6) If any person fails or refuses to file any statement or report, or obey any

subpoena, issued pursuant to subdivision (A)(2) of this Section, the Attorney General will be deemed to have met the requirement of conducting a preliminary investigation and may proceed to initiate a civil action pursuant to subdivision (A)(1) of this Section.

(B) Relief which may be granted.

(1) In any civil action brought pursuant to subsection (A) of this Section, the Attorney General may obtain as a remedy, equitable relief (including any permanent or preliminary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such civil rights violation or ordering any action as may be appropriate). In addition, the Attorney General may request and the Court may impose a civil penalty to vindicate the public interest:

(a) for violations of Article 3 and Article 4 in an amount not exceeding $25,000 per violation, and in the case of all other violations in an amount not exceeding $10,000 if the defendant has not been adjudged to have committed any prior civil rights violations under the provision of the Act that is the basis of the complaint;

(b) for violations of Article 3 and Article 4 in an amount not exceeding $50,000 per violation, and in the case of all other violations in an amount not exceeding ~~$25,000~~ if the defendant has been adjudged to have committed one other civil rights violation under the provision of the Act within 5 years of the occurrence of the civil rights violation that is the basis of the complaint; and

(c) for violations of Article 3 and Article 4 in an amount not exceeding $75,000 per violation, and in the case of all other violations in an amount not exceeding $50,000 if the defendant has been adjudged to have committed 2 or more civil rights violations under the provision of the Act within 5 years of the occurrence of the civil rights violation that is the basis of the complaint.

(2) A civil penalty imposed under subdivision (B)(1) of this Section shall be deposited into the Attorney General Court Ordered and Voluntary Compliance Payment Projects Fund, which is a special fund in the State Treasury. Moneys in the Fund shall be used, subject to appropriation, for the performance of any function pertaining to the exercise of the duties of the Attorney General including but not limited to enforcement of any law of this State and conducting public education programs; however, any moneys in the Fund that are required by the court or by an agreement to be used for a particular purpose shall be used for that purpose.

(3) Aggrieved parties seeking actual damages must follow the procedure set out in Sections 7A-102 or 7B-102 for filing a charge.

(Source: P.A. 93-1017, eff. 8-24-04.)

Section 10. The Illinois Fairness in Lending Act is amended by changing Section 3 as follows:

(815 ILCS 120/3) (from Ch. 17, par. 853)

Sec. 3. No financial institution, in connection with or in contemplation of any loan to any person, may:

(a) Deny or vary the terms of a loan on the basis that a specific parcel of real estate offered as security is located in a specific geographical area.

(b) Deny or vary the terms of a loan without having considered all of the regular and dependable income of each person who would be liable for repayment of the loan.

(c) Deny or vary the terms of a loan on the sole basis of the childbearing capacity of an applicant or an applicant's spouse.

(c-5) Deny or vary the terms of a loan on the basis of the borrower's race, gender, disability, or national origin.

(d) Utilize lending standards that have no economic basis and which are discriminatory in effect.

(e) Engage in equity stripping or loan flipping.

(Source: P.A. 93-561, eff. 1-1-04.)

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

Senator Collins offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1879

AMENDMENT NO. 2. Amend Senate Bill 1879, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 4, line 22, by replacing "case of all other violations"

with "case of violations of all other Articles"; and

on page 5, line 3, by replacing "case of all other violations" with "case of violations of all other Articles"; and

on page 5, line 4, by replacing "~~$25,000~~" with "$25,000"; and

on page 5, line 11, by replacing "case of all other violations" with "case of violations of all other Articles".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Haine, **Senate Bill No. 1890** having been printed, was taken up, read by title a second time.

Senator Haine offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1890

AMENDMENT NO. 1. Amend Senate Bill 1890 by replacing everything after the enacting clause with the following:

"Section 5. The Public Construction Bond Act is amended by changing Section 1 as follows:

(30 ILCS 550/1) (from Ch. 29, par. 15)

Sec. 1. Except as otherwise provided by this Act, all officials, boards, commissions, or agents of this State ~~, or of any political subdivision thereof~~ in making contracts for public work of any kind costing over $50,000 ~~$5,000~~ to be performed for the State, and all officials, boards, commissions, or agents of any political subdivision of this State in making contracts for public work of any kind costing over $5,000 to be performed for the political subdivision, ~~or a political subdivision thereof~~ shall require every contractor for the work to furnish, supply and deliver a bond to the State, or to the political subdivision thereof entering into the contract, as the case may be, with good and sufficient sureties. The amount of the bond shall be fixed by the officials, boards, commissions, commissioners or agents, and the bond, among other conditions, shall be conditioned for the completion of the contract, for the payment of material used in the work and for all labor performed in the work, whether by subcontractor or otherwise.

If the contract is for emergency repairs as provided in the Illinois Procurement Code, proof of payment for all labor, materials, apparatus, fixtures, and machinery may be furnished in lieu of the bond required by this Section.

Each such bond is deemed to contain the following provisions whether such provisions are inserted in such bond or not:

"The principal and sureties on this bond agree that all the undertakings, covenants, terms, conditions and agreements of the contract or contracts entered into between the principal and the State or any political subdivision thereof will be performed and fulfilled and to pay all persons, firms and corporations having contracts with the principal or with subcontractors, all just claims due them under the provisions of such contracts for labor performed or materials furnished in the performance of the contract on account of which this bond is given, when such claims are not satisfied out of the contract price of the contract on account of which this bond is given, after final settlement between the officer, board, commission or agent of the State or of any political subdivision thereof and the principal has been made.

Each bond securing contracts between the Capital Development Board or any board of a public institution of higher education and a contractor shall contain the following provisions, whether the provisions are inserted in the bond or not:

"Upon the default of the principal with respect to undertakings, covenants, terms, conditions, and agreements, the termination of the contractor's right to proceed with the work, and written notice of that default and termination by the State or any political subdivision to the surety ("Notice"), the surety shall promptly remedy the default by taking one of the following actions:

(1) The surety shall complete the work pursuant to a written takeover agreement, using a completing contractor jointly selected by the surety and the State or any political subdivision; or

(2) The surety shall pay a sum of money to the obligee, up to the penal sum of the bond, that represents the reasonable cost to complete the work that exceeds the unpaid balance of the contract sum.

The surety shall respond to the Notice within 15 working days of receipt indicating the course of action that it intends to take. If the surety elects to complete the work with a completing contractor and if the State or any political subdivision determines it is in the best interest of the State to maintain the progress of the work, the State or any political subdivision may continue to work until the completing contractor is prepared to commence performance. The surety shall be liable for reasonable costs incurred by the State or any political subdivision to maintain the progress to the extent the costs exceed the unpaid balance of the contract sum, subject to the penal sum of the bond.".

The surety bond required by this Section may be acquired from the company, agent or broker of the contractor's choice. The bond and sureties shall be subject to the right of reasonable approval or disapproval, including suspension, by the State or political subdivision thereof concerned. In the case of State construction contracts, a contractor shall not be required to post a cash bond or letter of credit in addition to or as a substitute for the surety bond required by this Section.

When other than motor fuel tax funds, federal-aid funds, or other funds received from the State are used, a political subdivision may allow the contractor to provide a non-diminishing irrevocable bank letter of credit, in lieu of the bond required by this Section, on contracts under $100,000 to comply with the requirements of this Section. Any such bank letter of credit shall contain all provisions required for bonds by this Section.

(Source: P.A. 93-221, eff. 1-1-04.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Schoenberg, **Senate Bill No. 1925** having been printed, was taken up, read by title a second time.

The following amendments were offered in the Committee on Public Health, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 1925

AMENDMENT NO. 1. Amend Senate Bill 1925 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Public Aid Code is amended by changing Section 5-2 as follows:

(305 ILCS 5/5-2) (from Ch. 23, par. 5-2)

Sec. 5-2. Classes of Persons Eligible. Medical assistance under this Article shall be available to any of the following classes of persons in respect to whom a plan for coverage has been submitted to the Governor by the Illinois Department and approved by him:

1. Recipients of basic maintenance grants under Articles III and IV.

2. Persons otherwise eligible for basic maintenance under Articles III and IV but who fail to qualify thereunder on the basis of need, and who have insufficient income and resources to meet the costs of necessary medical care, including but not limited to the following:

(a) All persons otherwise eligible for basic maintenance under Article III but who fail to qualify under that Article on the basis of need and who meet either of the following requirements:

(i) their income, as determined by the Illinois Department in accordance with any federal requirements, is equal to or less than 70% in fiscal year 2001, equal to or less than 85% in fiscal year 2002 and until a date to be determined by the Department by rule, and equal to or less than 100% beginning on the date determined by the Department by rule, of the nonfarm income official poverty line, as defined by the federal Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981, applicable to families of the same size; or

(ii) their income, after the deduction of costs incurred for medical care and for other types of remedial care, is equal to or less than 70% in fiscal year 2001, equal to or less than 85% in fiscal year 2002 and until a date to be determined by the Department by rule, and

equal to or less than 100% beginning on the date determined by the Department by rule, of the nonfarm income official poverty line, as defined in item (i) of this subparagraph (a).

(b) All persons who would be determined eligible for such basic maintenance under Article IV by disregarding the maximum earned income permitted by federal law.

3. Persons who would otherwise qualify for Aid to the Medically Indigent under Article VII.

4. Persons not eligible under any of the preceding paragraphs who fall sick, are injured, or die, not having sufficient money, property or other resources to meet the costs of necessary medical care or funeral and burial expenses.

5.(a) Women during pregnancy, after the fact of pregnancy has been determined by medical diagnosis, and during the 60-day period beginning on the last day of the pregnancy, together with their infants and children born after September 30, 1983, whose income and resources are insufficient to meet the costs of necessary medical care to the maximum extent possible under Title XIX of the Federal Social Security Act.

(b) The Illinois Department and the Governor shall provide a plan for coverage of the persons eligible under paragraph 5(a) by April 1, 1990. Such plan shall provide ambulatory prenatal care to pregnant women during a presumptive eligibility period and establish an income eligibility standard that is equal to 133% of the nonfarm income official poverty line, as defined by the federal Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981, applicable to families of the same size, provided that costs incurred for medical care are not taken into account in determining such income eligibility.

(c) The Illinois Department may conduct a demonstration in at least one county that will provide medical assistance to pregnant women, together with their infants and children up to one year of age, where the income eligibility standard is set up to 185% of the nonfarm income official poverty line, as defined by the federal Office of Management and Budget. The Illinois Department shall seek and obtain necessary authorization provided under federal law to implement such a demonstration. Such demonstration may establish resource standards that are not more restrictive than those established under Article IV of this Code.

6. Persons under the age of 18 who fail to qualify as dependent under Article IV and who have insufficient income and resources to meet the costs of necessary medical care to the maximum extent permitted under Title XIX of the Federal Social Security Act.

7. Persons who are under 21 years of age and would qualify as disabled as defined under the Federal Supplemental Security Income Program, provided medical service for such persons would be eligible for Federal Financial Participation, and provided the Illinois Department determines that:

(a) the person requires a level of care provided by a hospital, skilled nursing facility, or intermediate care facility, as determined by a physician licensed to practice medicine in all its branches;

(b) it is appropriate to provide such care outside of an institution, as determined by a physician licensed to practice medicine in all its branches;

(c) the estimated amount which would be expended for care outside the institution is not greater than the estimated amount which would be expended in an institution.

8. Persons who become ineligible for basic maintenance assistance under Article IV of this Code in programs administered by the Illinois Department due to employment earnings and persons in assistance units comprised of adults and children who become ineligible for basic maintenance assistance under Article VI of this Code due to employment earnings. The plan for coverage for this class of persons shall:

(a) extend the medical assistance coverage for up to 12 months following termination of basic maintenance assistance; and

(b) offer persons who have initially received 6 months of the coverage provided in paragraph (a) above, the option of receiving an additional 6 months of coverage, subject to the following:

(i) such coverage shall be pursuant to provisions of the federal Social Security Act;

(ii) such coverage shall include all services covered while the person was eligible for basic maintenance assistance;

(iii) no premium shall be charged for such coverage; and

(iv) such coverage shall be suspended in the event of a person's failure without good cause to file in a timely fashion reports required for this coverage under the Social Security Act and coverage shall be reinstated upon the filing of such reports if the person remains

otherwise eligible.

9. Persons with acquired immunodeficiency syndrome (AIDS) or with AIDS-related conditions with respect to whom there has been a determination that but for home or community-based services such individuals would require the level of care provided in an inpatient hospital, skilled nursing facility or intermediate care facility the cost of which is reimbursed under this Article. Assistance shall be provided to such persons to the maximum extent permitted under Title XIX of the Federal Social Security Act.

10. Participants in the long-term care insurance partnership program established under the Illinois Long-Term Care Partnership Program Act ~~Partnership for Long-Term Care Act~~ who meet the qualifications for protection of resources described in Section 15 ~~25~~ of that Act.

11. Persons with disabilities who are employed and eligible for Medicaid, pursuant to Section 1902(a)(10)(A)(ii)(xv) of the Social Security Act, as provided by the Illinois Department by rule. In establishing eligibility standards under this paragraph 11, the Department shall, subject to federal approval:

(a) set the income eligibility standard at not lower than 350% of the federal poverty level;

(b) exempt retirement accounts that the person cannot access without penalty before the age of 59 1/2, and medical savings accounts established pursuant to 26 U.S.C. 220;

(c) allow non-exempt assets up to $25,000 as to those assets accumulated during periods of eligibility under this paragraph 11; and

(d) continue to apply subparagraphs (b) and (c) in determining the eligibility of the person under this Article even if the person loses eligibility under this paragraph 11.

12. Subject to federal approval, persons who are eligible for medical assistance coverage under applicable provisions of the federal Social Security Act and the federal Breast and Cervical Cancer Prevention and Treatment Act of 2000. Those eligible persons are defined to include, but not be limited to, the following persons:

(1) persons who have been screened for breast or cervical cancer under the U.S. Centers for Disease Control and Prevention Breast and Cervical Cancer Program established under Title XV of the federal Public Health Services Act in accordance with the requirements of Section 1504 of that Act as administered by the Illinois Department of Public Health; and

(2) persons whose screenings under the above program were funded in whole or in part by funds appropriated to the Illinois Department of Public Health for breast or cervical cancer screening.

"Medical assistance" under this paragraph 12 shall be identical to the benefits provided under the State's approved plan under Title XIX of the Social Security Act. The Department must request federal approval of the coverage under this paragraph 12 within 30 days after the effective date of this amendatory Act of the 92nd General Assembly.

13. Subject to appropriation and to federal approval, persons living with HIV/AIDS who are not otherwise eligible under this Article and who qualify for services covered under Section 5-5.04 as provided by the Illinois Department by rule.

14. Subject to the availability of funds for this purpose, the Department may provide coverage under this Article to persons who reside in Illinois who are not eligible under any of the preceding paragraphs and who meet the income guidelines of paragraph 2(a) of this Section and (i) have an application for asylum pending before the federal Department of Homeland Security or on appeal before a court of competent jurisdiction and are represented either by counsel or by an advocate accredited by the federal Department of Homeland Security and employed by a not-for-profit organization in regard to that application or appeal, or (ii) are receiving services through a federally funded torture treatment center. Medical coverage under this paragraph 14 may be provided for up to 24 continuous months from the initial eligibility date so long as an individual continues to satisfy the criteria of this paragraph 14. If an individual has an appeal pending regarding an application for asylum before the Department of Homeland Security, eligibility under this paragraph 14 may be extended until a final decision is rendered on the appeal. The Department may adopt rules governing the implementation of this paragraph 14.

15. Any person who is a United States citizen, is lawfully present in the United States, or is permanently residing in the United States under color of law, who is not otherwise eligible for medical assistance under any other paragraph of this Section, and who has income, as determined by the Illinois Department, that is equal to or less than 100% of the Federal Poverty Level or is equal to or less than 100% of the Federal Poverty Level by disregarding the maximum earned income as determined by the Illinois Department, shall be eligible to receive medical assistance that is no less than the covered

benefits available to persons eligible under paragraph 2 of this Section. All persons enrolled under this paragraph 15 shall be required to choose a medical home and primary care provider through the Illinois Health Connect Primary Care Case Management Program or any subsequent Illinois Department of Healthcare and Family Services primary care case management program.

The Illinois Department and the Governor shall provide a plan for coverage of the persons eligible under paragraph 7 as soon as possible after July 1, 1984.

The eligibility of any such person for medical assistance under this Article is not affected by the payment of any grant under the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act or any distributions or items of income described under subparagraph (X) of paragraph (2) of subsection (a) of Section 203 of the Illinois Income Tax Act. The Department shall by rule establish the amounts of assets to be disregarded in determining eligibility for medical assistance, which shall at a minimum equal the amounts to be disregarded under the Federal Supplemental Security Income Program. The amount of assets of a single person to be disregarded shall not be less than $2,000, and the amount of assets of a married couple to be disregarded shall not be less than $3,000.

To the extent permitted under federal law, any person found guilty of a second violation of Article VIIIA shall be ineligible for medical assistance under this Article, as provided in Section 8A-8.

The eligibility of any person for medical assistance under this Article shall not be affected by the receipt by the person of donations or benefits from fundraisers held for the person in cases of serious illness, as long as neither the person nor members of the person's family have actual control over the donations or benefits or the disbursement of the donations or benefits.

(Source: P.A. 94-629, eff. 1-1-06; 94-1043, eff. 7-24-06; 95-546, eff. 8-29-07; revised 1-22-08.)".

Senator Schoenberg offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1925

AMENDMENT NO. _2__. Amend Senate Bill 1925, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Public Aid Code is amended by changing Section 5-2 as follows:

(305 ILCS 5/5-2) (from Ch. 23, par. 5-2)

Sec. 5-2. Classes of Persons Eligible. Medical assistance under this Article shall be available to any of the following classes of persons in respect to whom a plan for coverage has been submitted to the Governor by the Illinois Department and approved by him:

1. Recipients of basic maintenance grants under Articles III and IV.

2. Persons otherwise eligible for basic maintenance under Articles III and IV but who fail to qualify thereunder on the basis of need, and who have insufficient income and resources to meet the costs of necessary medical care, including but not limited to the following:

(a) All persons otherwise eligible for basic maintenance under Article III but who fail to qualify under that Article on the basis of need and who meet either of the following requirements:

(i) their income, as determined by the Illinois Department in accordance with any federal requirements, is equal to or less than 70% in fiscal year 2001, equal to or less than 85% in fiscal year 2002 and until a date to be determined by the Department by rule, and equal to or less than 100% beginning on the date determined by the Department by rule, of the nonfarm income official poverty line, as defined by the federal Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981, applicable to families of the same size; or

(ii) their income, after the deduction of costs incurred for medical care and for other types of remedial care, is equal to or less than 70% in fiscal year 2001, equal to or less than 85% in fiscal year 2002 and until a date to be determined by the Department by rule, and equal to or less than 100% beginning on the date determined by the Department by rule, of the nonfarm income official poverty line, as defined in item (i) of this subparagraph (a).

(b) All persons who would be determined eligible for such basic maintenance under Article IV by disregarding the maximum earned income permitted by federal law.

3. Persons who would otherwise qualify for Aid to the Medically Indigent under Article VII.

4. Persons not eligible under any of the preceding paragraphs who fall sick, are injured, or die, not having sufficient money, property or other resources to meet the costs of necessary medical care or funeral and burial expenses.

5.(a) Women during pregnancy, after the fact of pregnancy has been determined by medical diagnosis, and during the 60-day period beginning on the last day of the pregnancy, together with their infants and children born after September 30, 1983, whose income and resources are insufficient to meet the costs of necessary medical care to the maximum extent possible under Title XIX of the Federal Social Security Act.

(b) The Illinois Department and the Governor shall provide a plan for coverage of the persons eligible under paragraph 5(a) by April 1, 1990. Such plan shall provide ambulatory prenatal care to pregnant women during a presumptive eligibility period and establish an income eligibility standard that is equal to 133% of the nonfarm income official poverty line, as defined by the federal Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981, applicable to families of the same size, provided that costs incurred for medical care are not taken into account in determining such income eligibility.

(c) The Illinois Department may conduct a demonstration in at least one county that will provide medical assistance to pregnant women, together with their infants and children up to one year of age, where the income eligibility standard is set up to 185% of the nonfarm income official poverty line, as defined by the federal Office of Management and Budget. The Illinois Department shall seek and obtain necessary authorization provided under federal law to implement such a demonstration. Such demonstration may establish resource standards that are not more restrictive than those established under Article IV of this Code.

6. Persons under the age of 18 who fail to qualify as dependent under Article IV and who have insufficient income and resources to meet the costs of necessary medical care to the maximum extent permitted under Title XIX of the Federal Social Security Act.

7. Persons who are under 21 years of age and would qualify as disabled as defined under the Federal Supplemental Security Income Program, provided medical service for such persons would be eligible for Federal Financial Participation, and provided the Illinois Department determines that:

(a) the person requires a level of care provided by a hospital, skilled nursing facility, or intermediate care facility, as determined by a physician licensed to practice medicine in all its branches;

(b) it is appropriate to provide such care outside of an institution, as determined by a physician licensed to practice medicine in all its branches;

(c) the estimated amount which would be expended for care outside the institution is not greater than the estimated amount which would be expended in an institution.

8. Persons who become ineligible for basic maintenance assistance under Article IV of this Code in programs administered by the Illinois Department due to employment earnings and persons in assistance units comprised of adults and children who become ineligible for basic maintenance assistance under Article VI of this Code due to employment earnings. The plan for coverage for this class of persons shall:

(a) extend the medical assistance coverage for up to 12 months following termination of basic maintenance assistance; and

(b) offer persons who have initially received 6 months of the coverage provided in paragraph (a) above, the option of receiving an additional 6 months of coverage, subject to the following:

(i) such coverage shall be pursuant to provisions of the federal Social Security Act;

(ii) such coverage shall include all services covered while the person was eligible for basic maintenance assistance;

(iii) no premium shall be charged for such coverage; and

(iv) such coverage shall be suspended in the event of a person's failure without good cause to file in a timely fashion reports required for this coverage under the Social Security Act and coverage shall be reinstated upon the filing of such reports if the person remains otherwise eligible.

9. Persons with acquired immunodeficiency syndrome (AIDS) or with AIDS-related conditions with respect to whom there has been a determination that but for home or community-based services such individuals would require the level of care provided in an inpatient hospital, skilled nursing facility or intermediate care facility the cost of which is reimbursed under this Article. Assistance shall be provided to such persons to the maximum extent permitted under Title XIX of the Federal Social Security Act.

10. Participants in the long-term care insurance partnership program established under the Illinois Long-Term Care Partnership Program Act ~~Partnership for Long-Term Care Act~~ who meet

the qualifications for protection of resources described in Section 15 ~~25~~ of that Act.

11. Persons with disabilities who are employed and eligible for Medicaid, pursuant to Section 1902(a)(10)(A)(ii)(xv) of the Social Security Act, as provided by the Illinois Department by rule. In establishing eligibility standards under this paragraph 11, the Department shall, subject to federal approval:

(a) set the income eligibility standard at not lower than 350% of the federal poverty level;

(b) exempt retirement accounts that the person cannot access without penalty before the age of 59 1/2, and medical savings accounts established pursuant to 26 U.S.C. 220;

(c) allow non-exempt assets up to $25,000 as to those assets accumulated during periods of eligibility under this paragraph 11; and

(d) continue to apply subparagraphs (b) and (c) in determining the eligibility of the person under this Article even if the person loses eligibility under this paragraph 11.

12. Subject to federal approval, persons who are eligible for medical assistance coverage under applicable provisions of the federal Social Security Act and the federal Breast and Cervical Cancer Prevention and Treatment Act of 2000. Those eligible persons are defined to include, but not be limited to, the following persons:

(1) persons who have been screened for breast or cervical cancer under the U.S. Centers for Disease Control and Prevention Breast and Cervical Cancer Program established under Title XV of the federal Public Health Services Act in accordance with the requirements of Section 1504 of that Act as administered by the Illinois Department of Public Health; and

(2) persons whose screenings under the above program were funded in whole or in part by funds appropriated to the Illinois Department of Public Health for breast or cervical cancer screening.

"Medical assistance" under this paragraph 12 shall be identical to the benefits provided under the State's approved plan under Title XIX of the Social Security Act. The Department must request federal approval of the coverage under this paragraph 12 within 30 days after the effective date of this amendatory Act of the 92nd General Assembly.

13. Subject to appropriation and to federal approval, persons living with HIV/AIDS who are not otherwise eligible under this Article and who qualify for services covered under Section 5-5.04 as provided by the Illinois Department by rule.

14. Subject to the availability of funds for this purpose, the Department may provide coverage under this Article to persons who reside in Illinois who are not eligible under any of the preceding paragraphs and who meet the income guidelines of paragraph 2(a) of this Section and (i) have an application for asylum pending before the federal Department of Homeland Security or on appeal before a court of competent jurisdiction and are represented either by counsel or by an advocate accredited by the federal Department of Homeland Security and employed by a not-for-profit organization in regard to that application or appeal, or (ii) are receiving services through a federally funded torture treatment center. Medical coverage under this paragraph 14 may be provided for up to 24 continuous months from the initial eligibility date so long as an individual continues to satisfy the criteria of this paragraph 14. If an individual has an appeal pending regarding an application for asylum before the Department of Homeland Security, eligibility under this paragraph 14 may be extended until a final decision is rendered on the appeal. The Department may adopt rules governing the implementation of this paragraph 14.

15. Persons who are not otherwise eligible for medical assistance under any other paragraph of this Section who meet the following requirements:

(a) They are at least 19 years of age and younger than 65 years of age.

(b) They are uninsured at the time they apply for medical assistance.

(c) They have income that is equal to or less than 100% of the federal poverty income guidelines. A person's income shall be determined using the methodology used to determine income under paragraph 2(a)(i) of this Section.

Notwithstanding any other provision of this Code, eligible non-citizens as defined under Section 1-11 of this Code may qualify regardless of when they entered the United States. The Department may require that persons enrolled under this paragraph 15 choose a medical home and a primary care provider. Covered services shall include all services covered for persons enrolled under paragraph 2(a)(i) of this Section except that long-term care services shall not be covered. For services provided to persons for whom federal matching funds are not available, the Department may establish rates of reimbursement for and make payments to providers that are owned or operated by a State agency, a State university, or a county with a population of 3,000,000 or more that differ from rates otherwise

established under this Code.

The Illinois Department and the Governor shall provide a plan for coverage of the persons eligible under paragraph 7 as soon as possible after July 1, 1984.

The eligibility of any such person for medical assistance under this Article is not affected by the payment of any grant under the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act or any distributions or items of income described under subparagraph (X) of paragraph (2) of subsection (a) of Section 203 of the Illinois Income Tax Act. The Department shall by rule establish the amounts of assets to be disregarded in determining eligibility for medical assistance, which shall at a minimum equal the amounts to be disregarded under the Federal Supplemental Security Income Program. The amount of assets of a single person to be disregarded shall not be less than $2,000, and the amount of assets of a married couple to be disregarded shall not be less than $3,000.

To the extent permitted under federal law, any person found guilty of a second violation of Article VIIIA shall be ineligible for medical assistance under this Article, as provided in Section 8A-8.

The eligibility of any person for medical assistance under this Article shall not be affected by the receipt by the person of donations or benefits from fundraisers held for the person in cases of serious illness, as long as neither the person nor members of the person's family have actual control over the donations or benefits or the disbursement of the donations or benefits.
(Source: P.A. 94-629, eff. 1-1-06; 94-1043, eff. 7-24-06; 95-546, eff. 8-29-07; revised 1-22-08.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Schoenberg, **Senate Bill No. 1926** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Environment and Energy, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 1926

AMENDMENT NO. 1. Amend Senate Bill 1926 by replacing everything after the enacting clause with the following:

"Section 5. The Public Utilities Act is amended by changing Section 2-203 as follows:

(220 ILCS 5/2-203)

(Section scheduled to be repealed on January 1, 2009)

Sec. 2-203. Public Utility Fund base maintenance contribution. Each ~~For each of the years 2003 through 2008, each~~ electric utility as defined in Section 16-102 of this Act providing service to more than 12,500 customers in this State on January 1, 1995 shall contribute annually a pro rata share of a total amount of $5,500,000 based upon the number of kilowatt-hours delivered to retail customers within this State by each such electric utility in the 12 months preceding the year of contribution. On or before May 1 of each year, the Illinois Commerce Commission shall determine and notify the Illinois Department of Revenue of the pro rata share owed by each electric utility based upon information supplied annually to the Commission. On or before June 1 of each year, the Department of Revenue shall send written notification to each electric utility of the amount of pro rata share they owe. These contributions shall be remitted to the Department of Revenue no earlier that July 1 and no later than July 31 of each year the contribution is due on a return prescribed and furnished by the Department of Revenue showing such information as the Department of Revenue may reasonably require. The Department of Revenue shall place the funds remitted under this Section in the Public Utility Fund in the State treasury. The funds received pursuant to this Section shall be subject to appropriation by the General Assembly. If an electric utility does not remit its pro rata share to the Department of Revenue, the Department of Revenue must inform the Illinois Commerce Commission of such failure. The Illinois Commerce Commission may then revoke the certification of that electric utility. This Section is repealed on January 1, 2014 ~~2009~~.
(Source: P.A. 92-600, eff. 6-28-02.)

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

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Haine, **Senate Bill No. 1929** having been printed, was taken up, read by title a second time.

Senator Haine offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1929

AMENDMENT NO. 1. Amend Senate Bill 1929 by replacing everything after the enacting clause with the following:

"Section 5. The Electrologist Licensing Act is amended by changing Sections 20 and 33 as follows:

(225 ILCS 412/20)

(Section scheduled to be repealed on January 1, 2014)

Sec. 20. Exemptions. This Act does not prohibit:

(1) A person licensed in this State under any other Act from engaging in the practice for which that person is licensed.

(2) The practice of electrology by a person who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of the employee's official duties.

(3) The practice of electrology included in a program of study by students enrolled in schools or in refresher courses approved by the Department.

~~Nothing in this Act shall be construed to prevent a person functioning as an assistant to a person licensed to practice medicine in all its branches from providing electrology services.~~

(Source: P.A. 92-750, eff. 1-1-03.)

(225 ILCS 412/33)

(Section scheduled to be repealed on January 1, 2014)

Sec. 33. Grandfather provision.

(a) For a period of 12 months after the filing of the original administrative rules adopted under this Act, the Department may issue a license to any individual who, in addition to meeting the requirements set forth in paragraphs (1), (2), (3), and (4) of Section 30, can document employment as an electrologist and has received remuneration for practicing electrology for a period of 3 years and can show proof of one of the following: (i) current board certification by a national electrology certifying body approved by the Department; or (ii) completion of 30 continuing education units in electrology approved by the Department.

(b) The Department may issue a license to an individual who failed to apply for licensure under subsection (a) of this Section on or before February 22, 2006 (one year after the effective date of the rules adopted under this Act), but who otherwise meets the qualifications set forth in subsection (a) of this Section, provided that the individual submits a completed application for licensure as required within 90 days after the effective date of this amendatory Act of the 95th General Assembly.

(Source: P.A. 92-750, eff. 1-1-03; 93-253, eff. 7-22-03.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Lightford, **Senate Bill No. 1933** having been printed, was taken up, read by title a second time.

Senator Lightford offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1933

AMENDMENT NO. 1. Amend Senate Bill 1933 on page 2, line 6, after the comma, by inserting "subject to appropriation,"; and

on page 3, line 20, by replacing "For" with "Subject to appropriation, for".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Haine, **Senate Bill No. 1941** having been printed, was taken up, read by title a second time.

Senate Committee Amendment No. 1 was held in the Committee on Rules.

The following amendment was offered in the Committee on Judiciary Civil Law, adopted and ordered printed:

AMENDMENT NO. 2 TO SENATE BILL 1941

AMENDMENT NO. 2. Amend Senate Bill 1941 by replacing everything after the enacting clause with the following:

"Section 5. The Recreational Use of Land and Water Areas Act is amended by changing Section 2 as follows:

(745 ILCS 65/2) (from Ch. 70, par. 32)

Sec. 2. As used in this ~~this~~ Act, unless the context otherwise requires:

(a) "Land" includes roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to the realty, but does not include residential buildings or residential property.

(b) "Owner" includes the possessor of any interest in land, whether it be a tenant, lessee, occupant, the State of Illinois and its political subdivisions, or person in control of the premises.

(c) "Recreational or conservation purpose" means entry onto the land of another to conduct hunting or recreational shooting or a combination thereof or any activity solely related to the aforesaid hunting or recreational shooting.

(d) "Charge" means an admission fee for permission to go upon the land, but does not include: the sharing of game, fish or other products of recreational use; or benefits to or arising from the recreational use; or contributions in kind, services or cash made for the purpose of properly conserving the land.

(e) "Person" includes any person, regardless of age, maturity, or experience, who enters upon or uses land for recreational purposes.

(Source: P.A. 94-625, eff. 8-18-05.)".

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Lightford, **Senate Bill No. 1956** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Education, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 1956

AMENDMENT NO. 1. Amend Senate Bill 1956 as follows:

on page 1, lines 4 and 5, by replacing "Section 27A-4" with "Sections 27A-4 and 27A-5"; and

on page 2, line 18, after "dropouts", by inserting "and may contain up to 25 campuses"; and

on page 3, line 6, after "dropouts", by inserting "and may each contain up to 25 campuses"; and

on page 3, line 20, after "dropouts", by inserting "and may each contain up to 25 campuses"; and

on page 4, line 7, after "dropouts", by inserting "and may contain up to 25 campuses"; and

on page 4, line 19, after "dropouts", by inserting "and may each contain up to 25 campuses"; and

on page 7, immediately below line 12, by inserting the following:

"(105 ILCS 5/27A-5)

Sec. 27A-5. Charter school; legal entity; requirements.

(a) A charter school shall be a public, nonsectarian, nonreligious, non-home based, and non-profit school. A charter school shall be organized and operated as a nonprofit corporation or other discrete, legal, nonprofit entity authorized under the laws of the State of Illinois.

(b) A charter school may be established under this Article by creating a new school or by converting an existing public school or attendance center to charter school status. Beginning on the effective date of this amendatory Act of the 93rd General Assembly, except as otherwise permitted under paragraphs (1), (2), (3), (4), and (5) of subsection (b) of Section 27A-4 of this Code, in all new applications submitted to the State Board or a local school board to establish a charter school in a city having a population exceeding 500,000, operation of the charter school shall be limited to one campus. The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to charter schools existing or approved on or before the effective date of this amendatory Act.

(c) A charter school shall be administered and governed by its board of directors or other governing body in the manner provided in its charter. The governing body of a charter school shall be subject to the Freedom of Information Act and the Open Meetings Act.

(d) A charter school shall comply with all applicable health and safety requirements applicable to public schools under the laws of the State of Illinois.

(e) Except as otherwise provided in the School Code, a charter school shall not charge tuition; provided that a charter school may charge reasonable fees for textbooks, instructional materials, and student activities.

(f) A charter school shall be responsible for the management and operation of its fiscal affairs including, but not limited to, the preparation of its budget. An audit of each charter school's finances shall be conducted annually by an outside, independent contractor retained by the charter school.

(g) A charter school shall comply with all provisions of this Article and its charter. A charter school is exempt from all other State laws and regulations in the School Code governing public schools and local school board policies, except the following:

(1) Sections 10-21.9 and 34-18.5 of the School Code regarding criminal history records checks and checks of the Statewide Sex Offender Database of applicants for employment;

(2) Sections 24-24 and 34-84A of the School Code regarding discipline of students;

(3) The Local Governmental and Governmental Employees Tort Immunity Act;

(4) Section 108.75 of the General Not For Profit Corporation Act of 1986 regarding indemnification of officers, directors, employees, and agents;

(5) The Abused and Neglected Child Reporting Act;

(6) The Illinois School Student Records Act; and

(7) Section 10-17a of the School Code regarding school report cards.

(h) A charter school may negotiate and contract with a school district, the governing body of a State college or university or public community college, or any other public or for-profit or nonprofit private entity for: (i) the use of a school building and grounds or any other real property or facilities that the charter school desires to use or convert for use as a charter school site, (ii) the operation and maintenance thereof, and (iii) the provision of any service, activity, or undertaking that the charter school is required to perform in order to carry out the terms of its charter. However, a charter school that is established on or after the effective date of this amendatory Act of the 93rd General Assembly and that operates in a city having a population exceeding 500,000 may not contract with a for-profit entity to manage or operate the school during the period that commences on the effective date of this amendatory Act of the 93rd General Assembly and concludes at the end of the 2004-2005 school year. Except as provided in subsection (i) of this Section, a school district may charge a charter school reasonable rent for the use of the district's buildings, grounds, and facilities. Any services for which a charter school contracts with a school district shall be provided by the district at cost. Any services for which a charter school contracts with a local school board or with the governing body of a State college or university or public community college shall be provided by the public entity at cost.

(i) In no event shall a charter school that is established by converting an existing school or attendance center to charter school status be required to pay rent for space that is deemed available, as negotiated and provided in the charter agreement, in school district facilities. However, all other costs for the operation and maintenance of school district facilities that are used by the charter school shall be subject to negotiation between the charter school and the local school board and shall be set forth in the charter.

(j) A charter school may limit student enrollment by age or grade level.

(Source: P.A. 93-3, eff. 4-16-03; 93-909, eff. 8-12-04; 94-219, eff. 7-14-05.)".

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Haine, **Senate Bill No. 1965** having been printed, was taken up, read by title a second time.

Senator Haine offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1965

AMENDMENT NO. 1. Amend Senate Bill 1965 on page 2, lines 2 and 3, by replacing "is ~~has already been~~" with "has already been"; and

on page 2, by replacing lines 12 through 14 with the following:

"The sheriff or his or her designee may cause an application for medical assistance under the Illinois Public Aid Code to be completed for an arrestee who is a hospital inpatient. If such arrestee is determined eligible, he or she shall receive medical assistance under the Code for hospital inpatient services only. An"; and

on page 3, line 21, by inserting "(i)" after "include"; and

on page 3, line 24, by replacing "arrest or" with "arrest, (ii) expenses"; and

on page 4, line 4, by inserting after "arrest" the following:

", or (iii) expenses for hospital inpatient services for arrestees enrolled for medical assistance under the Illinois Public Aid Code".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Haine, **Senate Bill No. 1972,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Lightford, **Senate Bill No. 1993,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Collins, **Senate Bill No. 1998** having been printed, was taken up, read by title a second time.

Senate Floor Amendment No. 1 was held in the Committee on Licensed Activities.

Senator Collins offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1998

AMENDMENT NO. 2. Amend Senate Bill 1998 on page 1, line 11, by replacing "Findings." with "Findings; procedures for multistate automated licensing system."; and

on page 1, line 12, by replacing "The" with "(1) The"; and

on page 2, immediately below line 13, by inserting the following:

"(2) The Director shall not require any exempt person to submit information to the multistate automated licensing system. For purposes of this Section, "exempt person" means any individual or company exempt from licensure in this State.

(3) No person shall be authorized to obtain information from the multistate automated licensing system or initiate any action based on information obtained from the multistate automated licensing system that the person could not otherwise have obtained or initiated based on information currently available under existing State law.

(4) The Director shall accept and abide by the Privacy, Data Security, and Security Breach Notification Policy, as adopted by the multistate automated licensing system, and ensure that it is in full compliance with existing State law. The Director may make available, upon written request, a copy of the contract between the Department and the multistate automated licensing system that satisfies the

provisions of this subsection (4).

(5) The Director may, upon written request and consistent with other state regulators, provide the most recently available audited financial report of the multistate automated licensing system.".

Senator Collins offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 1998

AMENDMENT NO. 3. Amend Senate Bill 1998 on page 1, immediately below line 3, by inserting the following:

"Section 1. Short title. This Act may be cited as the Homeowner Protection Act.

Section 5. Purpose and construction. The purpose of this Act is to help homeowners and communities avoid the devastating effects of foreclosure. This Act is to be construed as a borrower protection statute for all purposes. This Act shall be liberally construed to effectuate its purpose.

Section 10. Definitions. As used in this Act:

"Approved counseling agency" means a housing counseling agency approved by the U.S. Department of Housing and Urban Development, a credit counseling agency approved by the Secretary, or any other person or entity approved by the Secretary.

"Borrower" means a natural person who seeks or obtains a home loan.

"Delinquent" means past due with respect to payments on a home loan.

"Department" means the Department of Financial and Professional Regulation.

"Foreclosure Prevention Report" means the report required by Section 30 of this Act.

"Home loan" means a loan to or for the benefit of any natural person made primarily for personal, family, or household use, primarily secured by either a mortgage on residential real property, title to a mobile home, or certificates of stock or other evidence of ownership interests in and proprietary leases from corporations, partnerships, or limited liability companies formed for the purpose of cooperative ownership of residential real property, all located in this State.

"Lender" means any person, partnership, association, corporation, or any other entity who either transfers, offers, lends, or invests money in home loans.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation or other person authorized to act in the Secretary's stead.

"Servicer" means any entity chartered under the Illinois Banking Act, the Savings Bank Act, the Illinois Credit Union Act, or the Illinois Savings and Loan Act of 1985 and any person or entity licensed under the Residential Mortgage License Act of 1987, the Consumer Installment Loan Act, or the Sales Finance Agency Act who is responsible for the collection or remittance for or has the right or obligation to collect or remit for any lender, note owner, or note holder or for a lender's own account of payments, interest, principal, and escrow items (such as hazard insurance and taxes on a residential mortgage loan) in accordance with the terms of the home loan, including loan payment follow up, delinquency loan follow up, loan analysis, and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing.

Section 15. Counseling prior to perfecting foreclosure proceedings.

(a) Except for home loans in which any borrower has filed for relief under the United States Bankruptcy Code, if a home loan becomes delinquent by more than 30 days, the servicer shall send a notice advising the borrower that he or she may wish to seek approved credit counseling.

(b) The notice required in subsection (a) of this Section shall state the date on which the notice was mailed, shall be headed in bold, 14-point type, "GRACE PERIOD NOTICE", and shall state the following in 14-point type: "YOUR LOAN IS OR WAS MORE THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED HOUSING OR CREDIT COUNSELING. YOU HAVE A GRACE PERIOD OF 30 DAYS FROM THE DATE OF THIS FORM TO OBTAIN APPROVED HOUSING OR CREDIT COUNSELING. DURING THE GRACE PERIOD, THE LAW PROHIBITS US FROM TAKING ANY LEGAL ACTION AGAINST YOU. A LIST OF APPROVED COUNSELING AGENCIES MAY BE OBTAINED FROM THE ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION." The notice shall also list the Department's current consumer hotline, the Department's website, and the telephone number, fax number, and mailing address of the servicer's loss mitigation department. No language, other than the language prescribed in this subsection

(b), shall be included in the notice. The requirements of this subsection (b) shall be deemed satisfied if the language and format prescribed in this subsection (b) is included in a counseling notification required under federal law.

(c) Upon mailing the notice provided for under subsection (b) of this Section, neither the lender, servicer, nor lender's agent shall institute legal action under Part 15 of Article XV of the Code of Civil Procedure for 30 days. Only one such 30-day period of forbearance is allowed under this subsection (c) per subject loan.

(d) If, within the 30-day period provided under subsection (c) of this Section, an approved counseling agency notifies the lender, servicer, or lender's agent that the borrower is seeking approved counseling services, then the lender, servicer, or lender's agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for 30 days after the date of that notice. During the 30-day period provided under this subsection (d), the borrower or counselor or both may prepare and proffer to the lender, servicer, or lender's agent a proposed debt management plan. The lender, servicer, or lender's agent shall then determine whether to accept the proposed debt management plan, based upon an evaluation of the borrower's ability to repay the loan under the proffered plan, in light of the borrower's current income and other financial resources. If the lender, servicer, or lender's agent and the borrower agree to a debt management plan, then the lender, servicer, or lender's agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for as long as the debt management plan is complied with by the borrower. The agreed debt management plan and any modifications thereto must be in writing and signed by the lender, servicer, or lender's agent and the borrower. Upon written notice to the lender, servicer, or lender's agent, the borrower may change approved counseling agencies, but such a change does not entitle the borrower to any additional period of forbearance.

(e) If the borrower fails to comply with the agreed debt management plan, then nothing in this Section shall be construed to impair the legal right of the lender, servicer, or lender's agent to enforce the contract.

(f) This Section is repealed on December 31, 2010.

Section 20. Foreclosure Prevention Report; requirements. A servicer shall compile and submit to the Secretary on or before the twentieth business day of every other month a Foreclosure Prevention Report that contains the following information for the preceding 2 months or as otherwise indicated:

(1) The number of home loans the servicer is servicing.

(2) The number of home loans that the servicer is servicing that are in payment default.

(3) Information on loss mitigation activities undertaken, including, but not limited to, the following:

(A) the number and identification of home loans that were refinanced into more affordable or fixed home loans;

(B) the number and identification of home loans for which the borrower has sought housing or credit counseling, if known;

(C) the number of workout arrangements entered into by the servicer in connection with home loans; and

(D) the proactive steps taken by the servicer to identify borrowers at a heightened risk of default, such as those with impending interest rate resets, including, but not limited to, contacts with borrowers to assess their ability to repay their home loan obligations.

(4) The number of foreclosure actions commenced in this State in connection with home loans it is servicing.

(5) Any other information that the Secretary may deem necessary, including geographic information regarding applicable home loans.

Section 25. Foreclosure Prevention Report; form and manner prescribed by Secretary. The Secretary shall prescribe the form and manner for filing the Foreclosure Prevention Report. This Section is repealed on December 31, 2010.

Section 30. Foreclosure Prevention Report; publication. The Secretary may publish for public review the Foreclosure Prevention Report or any information contained in the Foreclosure Prevention Report, except personally-identifying information regarding borrowers. This Section is repealed on December 31, 2010.

Section 90. Enforcement.

(a) The Secretary shall have the power to issue orders against any person or entity if the Secretary has reasonable cause to believe that a violation of this Act has occurred, is occurring, or is about to occur, if any person has violated, is violating, or is about to violate any law, rule, order, or written agreement with the Secretary, or for the purpose of administering the provisions of this Act and any rule promulgated in accordance with this Act.

(b) The Secretary may impose civil penalties of up to $1,000 against any person for each violation of any provision of this Act, any rule promulgated in accordance with this Act, or any order of the Secretary. The Secretary shall also have the power to subpoena witnesses, to administer an oath, to examine any person under oath, and to require the production of any relevant books, papers, accounts, and documents in the course of and pursuant to any investigation being conducted or any action being taken by the Secretary in respect of any matter relating to the duties imposed upon or the powers vested in the Secretary under the provisions of this Act or any rule promulgated in accordance with this Act.

(c) Any actions taken by the Secretary pursuant to this Section shall be done in accordance with the Illinois Administrative Procedure Act.

Section 95. Rulemaking. The Department may adopt reasonable rules to implement and administer this Act.

Section 100. Judicial review. All final administrative decisions under this Act are subject to judicial review pursuant to the provisions of the Administrative Review Law and any rules adopted pursuant thereto.

Section 105. Waiver prohibited. There shall be no waiver of any provision of this Act."; and

on page 1, line 4, by replacing "Section 5." with "Section 900."; and

on page 72, immediately below line 6, by inserting the following:

"Section 950. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes."; and

on page 72, line 7, by replacing "Section 99." with "Section 999.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 2 and 3 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Haine, **Senate Bill No. 1999** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Executive, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 1999

AMENDMENT NO. 1. Amend Senate Bill 1999 on page 93, by replacing lines 7 through 10 with the following:

"Fund shall be credited to the Fund. Moneys in the Fund may be transferred to the Professions Indirect Cost Fund. No other money may be transferred".

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Bond, **Senate Bill No. 2042** having been printed, was taken up, read by title a second time.

Senator Bond offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2042

AMENDMENT NO. 1. Amend Senate Bill 2042 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Sections 10-20.12a, 14-1.11, 14-1.11a, and 14-7.03 and by adding Section 14-7.05 as follows:

(105 ILCS 5/10-20.12a) (from Ch. 122, par. 10-20.12a)

Sec. 10-20.12a. Tuition for non-resident pupils.

(a) To charge non-resident pupils who attend the schools of the district tuition in an amount not exceeding 110% of the per capita cost of maintaining the schools of the district for the preceding school year.

Such per capita cost shall be computed by dividing the total cost of conducting and maintaining the schools of the district by the average daily attendance, including tuition pupils. Depreciation on the buildings and equipment of the schools of the district, and the amount of annual depreciation on such buildings and equipment shall be dependent upon the useful life of such property.

The tuition charged shall in no case exceed 110% of the per capita cost of conducting and maintaining the schools of the district attended, as determined with reference to the most recent audit prepared under Section 3-7 which is available at the commencement of the current school year. Non-resident pupils attending the schools of the district for less than the school term shall have their tuition apportioned, however pupils who become non-resident during a school term shall not be charged tuition for the remainder of the school term in which they became non-resident pupils.

(b) Unless otherwise agreed to by the parties involved and where the educational services are not otherwise provided for, educational services for an Illinois student under the age of 21 (and not eligible for services pursuant to Article 14 of this Code) in any ~~a~~ residential program ~~designed to correct alcohol or other drug dependencies~~ shall be provided by the district in which the facility is located and financed as follows. The cost of educational services shall be paid by the district in which the student resides in an amount equal to the cost of providing educational services in the residential ~~a treatment~~ facility. Payments shall be made by the district of the student's residence and shall be made to the district wherein the facility is located no less than once per month unless otherwise agreed to by the parties.

The funding provision of this subsection (b) applies to all Illinois students under the age of 21 (and not eligible for services pursuant to Article 14 of this Code) receiving educational services in residential facilities, irrespective of whether the student was placed therein pursuant to this Code or the Juvenile Court Act of 1987 or by an Illinois public agency or a court. Nothing in this Section shall be construed to relieve the district of the student's residence of financial responsibility based on the manner in which the student was placed at the facility. The changes to this subsection (b) made by this amendatory Act of the 95th General Assembly apply to all placements in effect on July 1, 2007 and all placements thereafter. For purposes of this subsection (b), a student's district of residence shall be determined in accordance with subsection (a) of Section 10-20.12b of this Code. The placement of a student in a residential facility shall not affect the residency of the student. When a dispute arises over the determination of the district of residence under this subsection (b), any person or entity, including without limitation a school district or residential facility, may make a written request for a residency decision to the State Superintendent of Education, who, upon review of materials submitted and any other items or information he or she may request for submission, shall issue his or her decision in writing. The decision of the State Superintendent of Education is final.

(Source: P.A. 89-397, eff. 8-20-95; 90-649, eff. 7-24-98.)

(105 ILCS 5/14-1.11) (from Ch. 122, par. 14-1.11)

Sec. 14-1.11. Resident district; parent; legal guardian. The resident district is the school district in which the parent or guardian, or both parent and guardian, of the student reside when:

(1) the parent has legal guardianship of the student and resides within Illinois; or

(2) an individual guardian has been appointed by the courts and resides within Illinois; or

(3) an Illinois public agency has legal guardianship and the student resides either in the home of the parent or within the same district as the parent; or

(4) an Illinois court orders a residential placement but the parents retain any legal rights or guardianship and have not been subject to a termination of parental rights order.

In cases of divorced or separated parents, when only one parent has legal guardianship or custody, the district in which the parent having legal guardianship or custody resides is the resident district. When both parents retain legal guardianship or custody, the resident district is the district in which either parent who provides the student's primary regular fixed night-time abode resides; provided, that the election of resident district may be made only one time per school year.

When the parent has legal guardianship and lives outside of the State of Illinois, or when the individual legal guardian other than the natural parent lives outside the State of Illinois, the parent, legal

guardian, or other placing agent is responsible for making arrangements to pay the Illinois school district serving the child for the educational services provided. Those service costs shall be determined in accordance with Section 14-7.01.
(Source: P.A. 89-698, eff. 1-14-97.)

(105 ILCS 5/14-1.11a) (from Ch. 122, par. 14-1.11a)

Sec. 14-1.11a. Resident district; student. The resident district is the school district in which the student resides when:

(1) the parent has legal guardianship but the location of the parent is unknown; or

(2) an individual guardian has been appointed but the location of the guardian is unknown; or

(3) the student is 18 years of age or older and no legal guardian has been appointed; or

(4) the student is legally an emancipated minor; or

(5) an Illinois public agency has legal guardianship and <u>such agency or any court in this State</u> has placed the student residentially outside of the school district in which the parent lives.

In cases where an Illinois public agency has legal guardianship and has placed the student residentially outside of Illinois, the last school district that provided at least 45 days of educational service to the student shall continue to be the district of residence until the student is no longer under guardianship of an Illinois public agency or until the student is returned to Illinois.

The resident district of a homeless student is the Illinois district in which the student enrolls for educational services. Homeless students include individuals as defined in the Stewart B. McKinney Homeless Assistance Act.
(Source: P.A. 87-1117; 88-134.)

(105 ILCS 5/14-7.03) (from Ch. 122, par. 14-7.03)

Sec. 14-7.03. Special Education Classes for Children from Orphanages, Foster Family Homes, Children's Homes, or in State Housing Units. If a school district maintains special education classes on the site of orphanages and children's homes, or if children from the orphanages, children's homes, foster family homes, other State agencies, or State residential units for children attend classes for children with disabilities in which the school district is a participating member of a joint agreement, or if the children from the orphanages, children's homes, foster family homes, other State agencies, or State residential units attend classes for the children with disabilities maintained by the school district, then reimbursement shall be paid to eligible districts in accordance with the provisions of this Section by the Comptroller as directed by the State Superintendent of Education.

The amount of tuition for such children shall be determined by the actual cost of maintaining such classes, using the per capita cost formula set forth in Section 14-7.01, such program and cost to be pre-approved by the State Superintendent of Education.

On forms prepared by the State Superintendent of Education, the district shall certify to the regional superintendent the following:

(1) The name of the home or State residential unit with the name of the owner or proprietor and address of those maintaining it;

(2) That no service charges or other payments authorized by law were collected in lieu of taxes therefrom or on account thereof during either of the calendar years included in the school year for which claim is being made;

(3) The number of children qualifying under this Act in special education classes for instruction on the site of the orphanages and children's homes;

(4) The number of children attending special education classes for children with disabilities in which the district is a participating member of a special education joint agreement;

(5) The number of children attending special education classes for children with disabilities maintained by the district;

(6) The computed amount of tuition payment claimed as due, as approved by the State Superintendent of Education, for maintaining these classes.

If a school district makes a claim for reimbursement under Section 18-3 or 18-4 of this Act it shall not include in any claim filed under this Section a claim for such children. Payments authorized by law, including State or federal grants for education of children included in this Section, shall be deducted in determining the tuition amount.

Nothing in this Act shall be construed so as to prohibit reimbursement for the tuition of children placed in for profit facilities. Private facilities shall provide adequate space at the facility for special education classes provided by a school district or joint agreement for children with disabilities who are residents of the facility at no cost to the school district or joint agreement upon request of the school

district or joint agreement. If such a private facility provides space at no cost to the district or joint agreement for special education classes provided to children with disabilities who are residents of the facility, the district or joint agreement shall not include any costs for the use of those facilities in its claim for reimbursement.

Reimbursement for tuition may include the cost of providing summer school programs for children with severe and profound disabilities served under this Section. Claims for that reimbursement shall be filed by November 1 and shall be paid on or before December 15 from appropriations made for the purposes of this Section.

The State Board of Education shall establish such rules and regulations as may be necessary to implement the provisions of this Section.

Claims filed on behalf of programs operated under this Section housed in a jail, detention center, or county-owned shelter care facility shall be on an individual student basis only for eligible students with disabilities. These claims shall be in accordance with applicable rules.

Each district claiming reimbursement for a program operated as a group program shall have an approved budget on file with the State Board of Education prior to the initiation of the program's operation. On September 30, December 31, and March 31, the State Board of Education shall voucher payments to group programs based upon the approved budget during the year of operation. Final claims for group payments shall be filed on or before July 15. Final claims for group programs received at the State Board of Education on or before June 15 shall be vouchered by June 30. Final claims received at the State Board of Education between June 16 and July 15 shall be vouchered by August 30. Claims for group programs received after July 15 shall not be honored.

Each district claiming reimbursement for individual students shall have the eligibility of those students verified by the State Board of Education. On September 30, December 31, and March 31, the State Board of Education shall voucher payments for individual students based upon an estimated cost calculated from the prior year's claim. Final claims for individual students for the regular school term must be received at the State Board of Education by July 15. Claims for individual students received after July 15 shall not be honored. Final claims for individual students shall be vouchered by August 30.

Reimbursement shall be made based upon approved group programs or individual students. The State Superintendent of Education shall direct the Comptroller to pay a specified amount to the district by the 30th day of September, December, March, June, or August, respectively. However, notwithstanding any other provisions of this Section or the School Code, beginning with fiscal year 1994 and each fiscal year thereafter, if the amount appropriated for any fiscal year is less than the amount required for purposes of this Section, the amount required to eliminate any insufficient reimbursement for each district claim under this Section shall be reimbursed on August 30 of the next fiscal year. Payments required to eliminate any insufficiency for prior fiscal year claims shall be made before any claims are paid for the current fiscal year.

The claim of a school district otherwise eligible to be reimbursed in accordance with Section 14-12.01 for the 1976-77 school year but for this amendatory Act of 1977 shall not be paid unless the district ceases to maintain such classes for one entire school year.

If a school district's current reimbursement payment for the 1977-78 school year only is less than the prior year's reimbursement payment owed, the district shall be paid the amount of the difference between the payments in addition to the current reimbursement payment, and the amount so paid shall be subtracted from the amount of prior year's reimbursement payment owed to the district.

Regional superintendents may operate special education classes for children from orphanages, foster family homes, children's homes or State housing units located within the educational services region upon consent of the school board otherwise so obligated. In electing to assume the powers and duties of a school district in providing and maintaining such a special education program, the regional superintendent may enter into joint agreements with other districts and may contract with public or private schools or the orphanage, foster family home, children's home or State housing unit for provision of the special education program. The regional superintendent exercising the powers granted under this Section shall claim the reimbursement authorized by this Section directly from the State Board of Education.

Any child who is not a resident of Illinois who is placed in a child welfare institution, private facility, foster family home, State operated program, orphanage or children's home shall have the payment for his educational tuition and any related services assured by the placing agent.

For ~~Commencing July 1, 1992, for~~ each disabled student who is placed in a residential facility by an Illinois public ~~residentially by a State~~ agency or by any court in this State ~~the courts for care or custody or both care and custody, welfare, medical or mental health treatment or both medical and mental health treatment, rehabilitation, and protection, whether placed there on, before, or after July 1, 1992~~, the costs

for educating the student are eligible for reimbursement under this Section ~~providing the placing agency or court has notified the appropriate school district authorities of the status of student residency where applicable prior to or upon placement. Subject to appropriation, school districts shall be reimbursed under this Section for the eligible costs of educating all disabled students residentially placed by a State agency or the courts or placed and paid for by a State agency for any of the reasons listed in this paragraph. Reimbursements under this paragraph shall first be provided for claims made for the 2007-2008 school year payable in fiscal year 2008.~~

The district of residence of the ~~parent, guardian, or~~ disabled student as defined in Section ~~Sections 14-1.11 and~~ 14-1.11a is responsible for the actual costs of the student's special education program and is eligible for reimbursement under this Section when placement is made by a State agency or the courts. ~~Payments shall be made by the resident district to the district wherein the facility is located no less than once per quarter unless otherwise agreed to in writing by the parties.~~

When a dispute arises over the determination of the district of residence under this Section, the district or districts may appeal the decision in writing to the State Superintendent of Education, who, upon review of materials submitted and any other items or information he or she may request for submission, shall issue a written decision on the matter. The decision of the State Superintendent of Education shall be final.

In the event a district does not make a tuition payment to another district that is providing the special education program and services, the State Board of Education shall immediately withhold 125% of the then remaining annual tuition cost from the State aid or categorical aid payment due to the school district that is determined to be the resident school district. All funds withheld by the State Board of Education shall immediately be forwarded to the school district where the student is being served.

When a child eligible for services under this Section 14-7.03 must be placed in a nonpublic facility, that facility shall meet the programmatic requirements of Section 14-7.02 and its regulations, and the educational services shall be funded only in accordance with this Section 14-7.03.

(Source: P.A. 95-313, eff. 8-20-07.)

(105 ILCS 5/14-7.05 new)

Sec. 14-7.05. Placement in residential facility; payment of educational costs. For any student with a disability in a residential facility placement made or paid for by an Illinois public State agency or made by any court in this State, the school district of residence as determined pursuant to this Article is responsible for the costs of educating the child and shall be reimbursed for those costs in accordance with this Code. Payments shall be made by the resident district to the entity providing the educational services, whether the entity is the residential facility or the school district wherein the facility is located, no less than once per quarter unless otherwise agreed to in writing by the parties.

When a dispute arises over the determination of the district of residence under this Section, any person or entity, including without limitation a school district or residential facility, may make a written request for a residency decision to the State Superintendent of Education, who, upon review of materials submitted and any other items of information he or she may request for submission, shall issue his or her decision in writing. The decision of the State Superintendent of Education is final.

Section 10. The Juvenile Court Act of 1987 is amended by changing Section 5-710 as follows:

(705 ILCS 405/5-710)

(Text of Section before amendment by P.A. 95-337 and 95-642)

Sec. 5-710. Kinds of sentencing orders.

(1) The following kinds of sentencing orders may be made in respect of wards of the court:

(a) Except as provided in Sections 5-805, 5-810, 5-815, a minor who is found guilty under Section 5-620 may be:

(i) put on probation or conditional discharge and released to his or her parents, guardian or legal custodian, provided, however, that any such minor who is not committed to the Department of Juvenile Justice under this subsection and who is found to be a delinquent for an offense which is first degree murder, a Class X felony, or a forcible felony shall be placed on probation;

(ii) placed in accordance with Section 5-740, with or without also being put on probation or conditional discharge;

(iii) required to undergo a substance abuse assessment conducted by a licensed provider and participate in the indicated clinical level of care;

(iv) placed in the guardianship of the Department of Children and Family Services, but only if the delinquent minor is under 13 years of age;

(v) placed in detention for a period not to exceed 30 days, either as the exclusive

order of disposition or, where appropriate, in conjunction with any other order of disposition issued under this paragraph, provided that any such detention shall be in a juvenile detention home and the minor so detained shall be 10 years of age or older. However, the 30-day limitation may be extended by further order of the court for a minor under age 13 committed to the Department of Children and Family Services if the court finds that the minor is a danger to himself or others. The minor shall be given credit on the sentencing order of detention for time spent in detention under Sections 5-501, 5-601, 5-710, or 5-720 of this Article as a result of the offense for which the sentencing order was imposed. The court may grant credit on a sentencing order of detention entered under a violation of probation or violation of conditional discharge under Section 5-720 of this Article for time spent in detention before the filing of the petition alleging the violation. A minor shall not be deprived of credit for time spent in detention before the filing of a violation of probation or conditional discharge alleging the same or related act or acts;

(vi) ordered partially or completely emancipated in accordance with the provisions of the Emancipation of Minors Act;

(vii) subject to having his or her driver's license or driving privileges suspended for such time as determined by the court but only until he or she attains 18 years of age;

(viii) put on probation or conditional discharge and placed in detention under Section 3-6039 of the Counties Code for a period not to exceed the period of incarceration permitted by law for adults found guilty of the same offense or offenses for which the minor was adjudicated delinquent, and in any event no longer than upon attainment of age 21; this subdivision (viii) notwithstanding any contrary provision of the law; or

(ix) ordered to undergo a medical or other procedure to have a tattoo symbolizing allegiance to a street gang removed from his or her body.

(b) A minor found to be guilty may be committed to the Department of Juvenile Justice under Section 5-750 if the minor is 13 years of age or older, provided that the commitment to the Department of Juvenile Justice shall be made only if a term of incarceration is permitted by law for adults found guilty of the offense for which the minor was adjudicated delinquent. The time during which a minor is in custody before being released upon the request of a parent, guardian or legal custodian shall be considered as time spent in detention.

(c) When a minor is found to be guilty for an offense which is a violation of the Illinois Controlled Substances Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act and made a ward of the court, the court may enter a disposition order requiring the minor to undergo assessment, counseling or treatment in a substance abuse program approved by the Department of Human Services.

(2) Any sentencing order other than commitment to the Department of Juvenile Justice may provide for protective supervision under Section 5-725 and may include an order of protection under Section 5-730.

(3) Unless the sentencing order expressly so provides, it does not operate to close proceedings on the pending petition, but is subject to modification until final closing and discharge of the proceedings under Section 5-750.

(4) In addition to any other sentence, the court may order any minor found to be delinquent to make restitution, in monetary or non-monetary form, under the terms and conditions of Section 5-5-6 of the Unified Code of Corrections, except that the "presentencing hearing" referred to in that Section shall be the sentencing hearing for purposes of this Section. The parent, guardian or legal custodian of the minor may be ordered by the court to pay some or all of the restitution on the minor's behalf, pursuant to the Parental Responsibility Law. The State's Attorney is authorized to act on behalf of any victim in seeking restitution in proceedings under this Section, up to the maximum amount allowed in Section 5 of the Parental Responsibility Law.

(5) Any sentencing order where the minor is committed or placed in accordance with Section 5-740 shall provide for the parents or guardian of the estate of the minor to pay to the legal custodian or guardian of the person of the minor such sums as are determined by the custodian or guardian of the person of the minor as necessary for the minor's needs. The payments may not exceed the maximum amounts provided for by Section 9.1 of the Children and Family Services Act.

(6) Whenever the sentencing order requires the minor to attend school or participate in a program of training, the truant officer or designated school official shall regularly report to the court if the minor is a chronic or habitual truant under Section 26-2a of the School Code. Notwithstanding any other provision of this Act, in instances in which educational services are to be provided to a minor in a residential facility where the minor has been placed by the court, costs incurred in the provision of those educational services must be allocated based on the requirements of the School Code.

(7) In no event shall a guilty minor be committed to the Department of Juvenile Justice for a period of time in excess of that period for which an adult could be committed for the same act.

(8) A minor found to be guilty for reasons that include a violation of Section 21-1.3 of the Criminal Code of 1961 shall be ordered to perform community service for not less than 30 and not more than 120 hours, if community service is available in the jurisdiction. The community service shall include, but need not be limited to, the cleanup and repair of the damage that was caused by the violation or similar damage to property located in the municipality or county in which the violation occurred. The order may be in addition to any other order authorized by this Section.

(8.5) A minor found to be guilty for reasons that include a violation of Section 3.02 or Section 3.03 of the Humane Care for Animals Act or paragraph (d) of subsection (1) of Section 21-1 of the Criminal Code of 1961 shall be ordered to undergo medical or psychiatric treatment rendered by a psychiatrist or psychological treatment rendered by a clinical psychologist. The order may be in addition to any other order authorized by this Section.

(9) In addition to any other sentencing order, the court shall order any minor found to be guilty for an act which would constitute, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse, or criminal sexual abuse if committed by an adult to undergo medical testing to determine whether the defendant has any sexually transmissible disease including a test for infection with human immunodeficiency virus (HIV) or any other identified causative agency of acquired immunodeficiency syndrome (AIDS). Any medical test shall be performed only by appropriately licensed medical practitioners and may include an analysis of any bodily fluids as well as an examination of the minor's person. Except as otherwise provided by law, the results of the test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the sentencing order was entered for the judge's inspection in camera. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom the results of the testing may be revealed. The court shall notify the minor of the results of the test for infection with the human immunodeficiency virus (HIV). The court shall also notify the victim if requested by the victim, and if the victim is under the age of 15 and if requested by the victim's parents or legal guardian, the court shall notify the victim's parents or the legal guardian, of the results of the test for infection with the human immunodeficiency virus (HIV). The court shall provide information on the availability of HIV testing and counseling at the Department of Public Health facilities to all parties to whom the results of the testing are revealed. The court shall order that the cost of any test shall be paid by the county and may be taxed as costs against the minor.

(10) When a court finds a minor to be guilty the court shall, before entering a sentencing order under this Section, make a finding whether the offense committed either: (a) was related to or in furtherance of the criminal activities of an organized gang or was motivated by the minor's membership in or allegiance to an organized gang, or (b) involved a violation of subsection (a) of Section 12-7.1 of the Criminal Code of 1961, a violation of any Section of Article 24 of the Criminal Code of 1961, or a violation of any statute that involved the wrongful use of a firearm. If the court determines the question in the affirmative, and the court does not commit the minor to the Department of Juvenile Justice, the court shall order the minor to perform community service for not less than 30 hours nor more than 120 hours, provided that community service is available in the jurisdiction and is funded and approved by the county board of the county where the offense was committed. The community service shall include, but need not be limited to, the cleanup and repair of any damage caused by a violation of Section 21-1.3 of the Criminal Code of 1961 and similar damage to property located in the municipality or county in which the violation occurred. When possible and reasonable, the community service shall be performed in the minor's neighborhood. This order shall be in addition to any other order authorized by this Section except for an order to place the minor in the custody of the Department of Juvenile Justice. For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(Source: P.A. 94-556, eff. 9-11-05; 94-696, eff. 6-1-06.)

(Text of Section after amendment by P.A. 95-337 and 95-642)

Sec. 5-710. Kinds of sentencing orders.

(1) The following kinds of sentencing orders may be made in respect of wards of the court:

(a) Except as provided in Sections 5-805, 5-810, 5-815, a minor who is found guilty under Section 5-620 may be:

(i) put on probation or conditional discharge and released to his or her parents, guardian or legal custodian, provided, however, that any such minor who is not committed to the

Department of Juvenile Justice under this subsection and who is found to be a delinquent for an offense which is first degree murder, a Class X felony, or a forcible felony shall be placed on probation;

(ii) placed in accordance with Section 5-740, with or without also being put on probation or conditional discharge;

(iii) required to undergo a substance abuse assessment conducted by a licensed provider and participate in the indicated clinical level of care;

(iv) placed in the guardianship of the Department of Children and Family Services, but only if the delinquent minor is under 15 years of age or, pursuant to Article II of this Act, a minor for whom an independent basis of abuse, neglect, or dependency exists. An independent basis exists when the allegations or adjudication of abuse, neglect, or dependency do not arise from the same facts, incident, or circumstances which give rise to a charge or adjudication of delinquency;

(v) placed in detention for a period not to exceed 30 days, either as the exclusive order of disposition or, where appropriate, in conjunction with any other order of disposition issued under this paragraph, provided that any such detention shall be in a juvenile detention home and the minor so detained shall be 10 years of age or older. However, the 30-day limitation may be extended by further order of the court for a minor under age 15 committed to the Department of Children and Family Services if the court finds that the minor is a danger to himself or others. The minor shall be given credit on the sentencing order of detention for time spent in detention under Sections 5-501, 5-601, 5-710, or 5-720 of this Article as a result of the offense for which the sentencing order was imposed. The court may grant credit on a sentencing order of detention entered under a violation of probation or violation of conditional discharge under Section 5-720 of this Article for time spent in detention before the filing of the petition alleging the violation. A minor shall not be deprived of credit for time spent in detention before the filing of a violation of probation or conditional discharge alleging the same or related act or acts;

(vi) ordered partially or completely emancipated in accordance with the provisions of the Emancipation of Minors Act;

(vii) subject to having his or her driver's license or driving privileges suspended for such time as determined by the court but only until he or she attains 18 years of age;

(viii) put on probation or conditional discharge and placed in detention under Section 3-6039 of the Counties Code for a period not to exceed the period of incarceration permitted by law for adults found guilty of the same offense or offenses for which the minor was adjudicated delinquent, and in any event no longer than upon attainment of age 21; this subdivision (viii) notwithstanding any contrary provision of the law; or

(ix) ordered to undergo a medical or other procedure to have a tattoo symbolizing allegiance to a street gang removed from his or her body.

(b) A minor found to be guilty may be committed to the Department of Juvenile Justice under Section 5-750 if the minor is 13 years of age or older, provided that the commitment to the Department of Juvenile Justice shall be made only if a term of incarceration is permitted by law for adults found guilty of the offense for which the minor was adjudicated delinquent. The time during which a minor is in custody before being released upon the request of a parent, guardian or legal custodian shall be considered as time spent in detention.

(c) When a minor is found to be guilty for an offense which is a violation of the Illinois Controlled Substances Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act and made a ward of the court, the court may enter a disposition order requiring the minor to undergo assessment, counseling or treatment in a substance abuse program approved by the Department of Human Services.

(2) Any sentencing order other than commitment to the Department of Juvenile Justice may provide for protective supervision under Section 5-725 and may include an order of protection under Section 5-730.

(3) Unless the sentencing order expressly so provides, it does not operate to close proceedings on the pending petition, but is subject to modification until final closing and discharge of the proceedings under Section 5-750.

(4) In addition to any other sentence, the court may order any minor found to be delinquent to make restitution, in monetary or non-monetary form, under the terms and conditions of Section 5-5-6 of the Unified Code of Corrections, except that the "presentencing hearing" referred to in that Section shall be the sentencing hearing for purposes of this Section. The parent, guardian or legal custodian of the minor may be ordered by the court to pay some or all of the restitution on the minor's behalf, pursuant to the

Parental Responsibility Law. The State's Attorney is authorized to act on behalf of any victim in seeking restitution in proceedings under this Section, up to the maximum amount allowed in Section 5 of the Parental Responsibility Law.

(5) Any sentencing order where the minor is committed or placed in accordance with Section 5-740 shall provide for the parents or guardian of the estate of the minor to pay to the legal custodian or guardian of the person of the minor such sums as are determined by the custodian or guardian of the person of the minor as necessary for the minor's needs. The payments may not exceed the maximum amounts provided for by Section 9.1 of the Children and Family Services Act.

(6) Whenever the sentencing order requires the minor to attend school or participate in a program of training, the truant officer or designated school official shall regularly report to the court if the minor is a chronic or habitual truant under Section 26-2a of the School Code. Notwithstanding any other provision of this Act, in instances in which educational services are to be provided to a minor in a residential facility where the minor has been placed by the court, costs incurred in the provision of those educational services must be allocated based on the requirements of the School Code.

(7) In no event shall a guilty minor be committed to the Department of Juvenile Justice for a period of time in excess of that period for which an adult could be committed for the same act.

(8) A minor found to be guilty for reasons that include a violation of Section 21-1.3 of the Criminal Code of 1961 shall be ordered to perform community service for not less than 30 and not more than 120 hours, if community service is available in the jurisdiction. The community service shall include, but need not be limited to, the cleanup and repair of the damage that was caused by the violation or similar damage to property located in the municipality or county in which the violation occurred. The order may be in addition to any other order authorized by this Section.

(8.5) A minor found to be guilty for reasons that include a violation of Section 3.02 or Section 3.03 of the Humane Care for Animals Act or paragraph (d) of subsection (1) of Section 21-1 of the Criminal Code of 1961 shall be ordered to undergo medical or psychiatric treatment rendered by a psychiatrist or psychological treatment rendered by a clinical psychologist. The order may be in addition to any other order authorized by this Section.

(9) In addition to any other sentencing order, the court shall order any minor found to be guilty for an act which would constitute, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse, or criminal sexual abuse if committed by an adult to undergo medical testing to determine whether the defendant has any sexually transmissible disease including a test for infection with human immunodeficiency virus (HIV) or any other identified causative agency of acquired immunodeficiency syndrome (AIDS). Any medical test shall be performed only by appropriately licensed medical practitioners and may include an analysis of any bodily fluids as well as an examination of the minor's person. Except as otherwise provided by law, the results of the test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the sentencing order was entered for the judge's inspection in camera. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom the results of the testing may be revealed. The court shall notify the minor of the results of the test for infection with the human immunodeficiency virus (HIV). The court shall also notify the victim if requested by the victim, and if the victim is under the age of 15 and if requested by the victim's parents or legal guardian, the court shall notify the victim's parents or the legal guardian, of the results of the test for infection with the human immunodeficiency virus (HIV). The court shall provide information on the availability of HIV testing and counseling at the Department of Public Health facilities to all parties to whom the results of the testing are revealed. The court shall order that the cost of any test shall be paid by the county and may be taxed as costs against the minor.

(10) When a court finds a minor to be guilty the court shall, before entering a sentencing order under this Section, make a finding whether the offense committed either: (a) was related to or in furtherance of the criminal activities of an organized gang or was motivated by the minor's membership in or allegiance to an organized gang, or (b) involved a violation of subsection (a) of Section 12-7.1 of the Criminal Code of 1961, a violation of any Section of Article 24 of the Criminal Code of 1961, or a violation of any statute that involved the wrongful use of a firearm. If the court determines the question in the affirmative, and the court does not commit the minor to the Department of Juvenile Justice, the court shall order the minor to perform community service for not less than 30 hours nor more than 120 hours, provided that community service is available in the jurisdiction and is funded and approved by the county board of the county where the offense was committed. The community service shall include, but need not be limited to, the cleanup and repair of any damage caused by a violation of Section 21-1.3 of the Criminal Code of 1961 and similar damage to property located in the municipality or county in

which the violation occurred. When possible and reasonable, the community service shall be performed in the minor's neighborhood. This order shall be in addition to any other order authorized by this Section except for an order to place the minor in the custody of the Department of Juvenile Justice. For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(11) If the court determines that the offense was committed in furtherance of the criminal activities of an organized gang, as provided in subsection (10), and that the offense involved the operation or use of a motor vehicle or the use of a driver's license or permit, the court shall notify the Secretary of State of that determination and of the period for which the minor shall be denied driving privileges. If, at the time of the determination, the minor does not hold a driver's license or permit, the court shall provide that the minor shall not be issued a driver's license or permit until his or her 18th birthday. If the minor holds a driver's license or permit at the time of the determination, the court shall provide that the minor's driver's license or permit shall be revoked until his or her 21st birthday, or until a later date or occurrence determined by the court. If the minor holds a driver's license at the time of the determination, the court may direct the Secretary of State to issue the minor a judicial driving permit, also known as a JDP. The JDP shall be subject to the same terms as a JDP issued under Section 6-206.1 of the Illinois Vehicle Code, except that the court may direct that the JDP be effective immediately.

(Source: P.A. 94-556, eff. 9-11-05; 94-696, eff. 6-1-06; 95-337, eff. 6-1-08; 95-642, eff. 6-1-08; revised 11-19-07.)

Section 95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Link, **Senate Bill No. 2051** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Judiciary Criminal Law, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 2051

AMENDMENT NO. 1. Amend Senate Bill 2051 on page 2, by replacing line 17 with the following:

"(7) the United States Department of Defense, who have at"; and

on page 3, lines 9 and 10, by replacing "a Department of Defense peace officer" with "the United States Department of Defense".

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Halvorson, **Senate Bill No. 2063** having been printed, was taken up, read by title a second time.

Senator Halvorson offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2063

AMENDMENT NO. 1. Amend Senate Bill 2063 by replacing everything after the enacting clause with the following:

"ARTICLE 1. TITLE AND DEFINITIONS

Section 1-1. Short title. This Act may be cited as the South Suburban Airport Authority Act.

Section 1-5. Definitions. As used in this Act:

"Airport" means a facility for passenger, cargo, or military air service, including, without limitation, landing fields, taxiways, aprons, runways, runway clear areas, hangars, aircraft service facilities, approaches, terminals, inspection facilities, parking, internal transit facilities, fueling facilities, cargo handling facilities, concessions, rapid transit and roadway access, land and interests in land, public waters, submerged land under public waters and reclaimed land located on previously submerged land under public waters, and all other property and appurtenances necessary or useful for development, ownership and operation of any such facilities, all located on the site of the airport. It further includes commercial or industrial facilities located on the site of the airport and related to the functioning of the airport or to providing services to users of the airport.

"Airport Boundaries" means the limits of the approved airport property for the current South Suburban Airport as shown on an airport layout plan approved by the Federal Aviation Administration, or any successor agency.

"Authority" means the South Suburban Airport Authority created by this Act.

"Board" means the Board of Directors of the Authority.

"Bonds" means any obligations of the Authority with respect to borrowed money, including, without limitation, bonds, notes, certificates of participation, lines of credit, leases, and installment or conditional purchase agreements.

"Department" means the Illinois Department of Transportation.

"Executive Director" means the Board-appointed chief executive officer of the Authority.

"Governmental entity" means any political subdivision, school district, municipal corporation, unit of local government, or airport authority.

"South Suburban Airport" means the airport to be developed on a site located in Will County and approved by the Federal Aviation Administration in the Record of Decision for Tier 1: FAA Site Approval And Land Acquisition By The State Of Illinois, Proposed South Suburban Airport, Will County, Illinois, dated July 2002. The airport location is reflected in Figure R-3 of the Record of Decision, and includes all of the land lying within the ultimate acquisition boundary depicted in Figure R-3. The ultimate airport boundaries shall be modified to reflect the ultimate airport boundaries in an airport layout plan approved by the Federal Aviation Administration, or any successor agency, and as reflected later in any approved airport layout plan.

ARTICLE 2. PURPOSE AND FINDINGS

Section 2-5. Purpose. The purpose of this Act is to create the Authority as an Illinois political subdivision, municipal corporation, and unit of local government with the powers set forth in this Act, including power to take all needed steps for the ownership, planning, acquisition, design, construction, development, and operation of the South Suburban Airport.

Section 2-10. Findings. It is found and declared by the General Assembly as follows:

(1) Providing facilities for air travel to and from the South Suburban Airport is essential for the health and welfare of the people of the State of Illinois and economic development of the State of Illinois.

(2) Airport development has significant regional impacts with regard to economic development, public infrastructure requirements, traffic, noise, and other concerns.

(3) To provide for the health and welfare of the people and economy of the South Suburban Airport Area and the State, it is necessary that there be regional control by the Authority of the ownership, planning, acquisition, design, construction, development, and operation of the South Suburban Airport.

Section 2-15. Exclusive exercise of State power. To the extent this Act grants the Authority power to plan, coordinate development of, make improvements to, zone for airport operation, safety, efficiency, and compatibility, control and operate the South Suburban Airport, it constitutes an exclusive exercise of those powers on behalf of the State in accordance with subsection (h) of Section 6 of Article VII of the Illinois Constitution and accordingly is a limitation on the powers of home rule units to regulate or supervise planning, construction, development, zoning for airport compatibility or operation of the South Suburban Airport.

ARTICLE 3. ESTABLISHMENT

Section 3-5. Creation of the Authority. There is created the South Suburban Airport Authority, which shall be an Illinois political subdivision, municipal corporation, and unit of local government.

ARTICLE 4. GOVERNANCE

Section 4-5. Board of Directors.

(a) The governing body of the Authority shall be a Board of Directors. The Board of Directors shall have 7 directors appointed as follows.

(1) Four directors shall be appointed by the Will County Executive, with the advice and consent of the Will County Board; one of these 4 directors shall be a resident of the 6 township eastern Will County area consisting of the townships of Crete, Green Garden, Monee, Peotone, Washington and Will;

(2) one director shall be appointed collectively by the municipalities of Beecher, Crete, Monee, Peotone and University Park; the selection procedure for this director shall be as follows: the village president of each municipality, with the advice and consent of the municipality's board of trustees, shall submit one candidate for consideration within 30 days after the effective date of this Act, and thereafter within 30 days of any vacancy or expiration of the term of the board member selected pursuant to this subsection; the municipalities may, by intergovernmental agreement, establish an open interview or other public hearing process to review the candidates; the Board of each such municipality shall vote, within 30 days of receipt of candidate nominations, for one candidate; candidates receiving the highest vote total shall be appointed to the Board; in the event of a tie vote among the candidates receiving the two highest vote totals, within 15 days of receiving notice of the tie vote, the village presidents of each municipality shall cast a vote for a single candidate to break the tie; the failure of a municipality's village president or board to act within any of the time frames set forth in this subsection shall forfeit that municipality's right to participate further in the selection and appointment process for the Authority's board position then under consideration;

(3) one director shall be appointed by the Governor upon the recommendation of the Cook County Township Supervisors whose townships border Will County; the director must reside in one of the Cook County Townships that border Will County;

(4) one director shall be appointed by the Chairman of the Kankakee County Board, with the advice and consent of the Kankakee County Board.

(b) One of the directors appointed by the Will County Executive, with the advice and consent of the Will County Board, shall be designated and serve as the Board Chair.

(c) Each appointment shall be certified by the appointing officer to the Secretary of State of Illinois and the Secretary of the Authority.

(d) The appointing officers shall make their initial appointments within 60 days after the effective date of this Act. The failure of any appointment to be so made shall not affect the establishment of the Authority or the exercise of its powers.

Section 4-10. Terms, vacancies, and removal.

(a) Of the initial 7 directors who may be appointed pursuant to this Act, one appointed by the Will County Executive shall serve for a term expiring July 1, 2009; one appointed by the Chairman of the Kankakee County Board and one appointed by the Will County Executive shall serve for terms expiring July 1, 2010; one appointed by the municipalities pursuant to item (2) of subsection (a) of Section 4-5 of this Act and one appointed by the Will County Executive shall serve terms expiring July 1, 2011; one appointed by the Governor shall serve for a term expiring on July 1, 2012; and the Chair shall serve for a term expiring July 1, 2013. All subsequent terms thereafter shall be 6 years.

(b) Directors shall hold office until their respective successors have been appointed. Directors may be reappointed and may serve consecutive terms.

(c) A vacancy shall occur upon resignation, death, or disqualification under the law of the State of Illinois or upon removal by the appointing official, as provided in subsection (f) of this Section.

(d) A director who no longer meets the residency requirements of subsection 4-5(a)(1) or (3) shall be disqualified and a vacancy shall exist until a new director is appointed.

(e) In the event of a vacancy, the appointing officer who appointed the director whose position is vacant shall make an appointment to fill the vacancy to serve the remainder of the unexpired term in the same manner as provided for appointment of directors.

(f) Any director may be removed from office by the official or successor who appointed that director

for incompetence, neglect of duty, or malfeasance in office on the part of the director to be removed.

Section 4-15. Meetings; quorum.

(a) As soon as practical after the effective date of this Act, the Board shall organize for the transaction of business. The Board may organize and conduct business when a majority of its members have been appointed. The Board shall prescribe the time and place for meetings, the place of the principal office of the Authority (which shall be in Will County), the manner in which special meetings may be called, the notice that must be given to directors, and the notice that must be given to the public of meetings of the Board. The Board shall prescribe by-laws and an official seal of the Authority. A majority of the total number of directors holding office at any time shall constitute a quorum for the transaction of business.

(b) All substantive action of the Board shall be by resolution. The concurrence of a majority of the total number of directors then holding office shall be necessary for the adoption of any resolution. No action shall be taken unless at least a majority of directors have been appointed and are holding office.

Section 4-20. Compensation. The annual compensation for directors shall be established by resolution of the Board at an amount not to exceed $10,000 per annum. The $10,000 threshold shall be revised each July 1 for inflation or deflation using the percentage change of the value of the Consumer Price Index for All Urban Consumers as determined by the United States Department of Labor in the latest known month compared to the same value in the previous year. The directors also shall be compensated for all actual expenses incurred in the performance of official duties.

Section 4-25. Chair and other officers. The Chair shall preside at meetings of the Board and shall be entitled to vote on all matters. The Board shall select a Vice-Chair (who shall preside in the Chair's absence), Secretary, and Treasurer and may provide for other officers of the Authority with such duties as it shall from time to time determine. The Secretary, Treasurer, and other officers of the Authority may, but need not, be directors.

Section 4-30. Executive Director. The officers of the Authority shall include an Executive Director, who shall be the chief executive officer of the Authority, and who shall be appointed by the Board. The Executive Director must have and maintain the designation as an Accredited Airport Executive as defined by the American Association of Airport Executives. The Executive Director, consistent with the policies and direction of the Board, (i) shall be responsible for the management of the properties, business, and employees of the Authority, (ii) shall direct the enforcement of all resolutions, rules, and regulation of the Board, and (iii) shall perform such other duties as may be prescribed from time to time by the Board. The Board shall provide for the appointment of, and may enter into contracts for services by, such attorneys, engineers, consultants, agents, and employees as it may deem necessary or desirable, and may require bonds of any of them. The Board shall adopt rules and procedures governing the Authority's employment, evaluation, promotion, and discharge of employees. Subject to those rules and procedures and consistent with the policies and directions of the Board, the Executive Director shall select and appoint and may discharge employees of the Authority, or may supervise such selection, appointment or discharge. The Executive Director shall not be a member of the Board. All officers (other than officers who are members of the Board) and all employees of the Authority shall report and be subordinate to the Executive Director. The compensation of the Executive Director and all other officers, attorneys, engineers, consultants, agents, and employees shall be established by the Board.

Section 4-35. Conflict of interest.

(a) No director shall be an elected official, officer or employee of federal, State, county, municipal or other local unit of government.

(b) It is unlawful for (i) any person appointed to or employed in any of the offices or agencies of Will, Cook, or Kankakee County, or the municipality of Beecher, Crete, Monee, Peotone, or University Park, who receives compensation for such employment in excess of the salary of the Will County Executive, (ii) a director or any person holding an elective office in Will, Cook, or Kankakee County or in the municipality of Beecher, Crete, Monee, Peotone, or University Park, or holding a seat on the board of Will, Cook, or Kankakee County or the municipality of Beecher, Crete, Monee, Peotone, or University Park, or (iii) a person who is the spouse or minor child of any person referenced in item (i) or (ii) of this subsection to have or acquire any contract, or any direct pecuniary interest in any contract therein, whether for stationery, printing, paper, or any services, materials, or supplies, that will be wholly or partially satisfied by the payment of funds by the Authority.

(c) It is unlawful for any firm, partnership, association, or corporation, in which any person listed in

subsection (b) is entitled to receive (i) more than 7 1/2% of the total distributable income or (ii) an amount in excess of two times the salary of the Will County Executive, to have or acquire any such contract or direct pecuniary interest therein.

(d) It is unlawful for any firm, partnership, association, or corporation, in which any person listed in subsection (b) together with his or her spouse or minor children is entitled to receive (i) more than 15%, in the aggregate, of the total distributable income or (ii) an amount in excess of 4 times the salary of the Will County Executive, to have or acquire any such contract or direct pecuniary interest therein.

(e) This Section does not affect the validity of any contract that was in existence before the election or employment as an officer, member, or employee of the person listed in subsection (b). The contract is voidable, however, if it cannot be completed within 365 days after the officer, member, or employee takes office or is employed.

(f) The following are exceptions to the otherwise applicable prohibitions of this Section:

(1) This Section does not apply to a contract for personal services of a wholly ministerial character, including but not limited to services as a laborer, clerk, typist, stenographer, page, bookkeeper, receptionist, or telephone switchboard operator, made by a spouse or minor child of the person listed in subsection (b).

(2) Contracts with licensed professionals, provided they are competitively bid or part of a reimbursement program for specific, customary goods and services associated with the provision of human services, such as financial or medical assistance for elderly or low income individuals.

(g) With respect to any direct or indirect interest, other than an interest prohibited in subsection (b), (c) or (d) of this Section held by a director or officer of the Authority or the spouse or minor child of a director or officer, in a contract or the performance of work upon which the director or officer of the Authority may, apart from subsections (b), (c) and (d), be called upon to act or vote, a director or officer of the Authority shall disclose the interest to the Secretary of the Authority prior to the taking of final action by the Authority concerning the contract or work and shall so disclose the nature and extent of the interest and the acquisition of it. The disclosure shall be publicly acknowledged by the Authority and entered upon the minutes of the Authority. If a director or officer or his or her spouse or minor child holds such an interest, then the director or officer shall refrain from any further involvement in regard to such contract or work, from voting on any matter pertaining to the contract or work, and from communicating with other directors or officers of the Authority concerning the contract or work. Notwithstanding any other provision of law, any contract or work entered into in conformity with this subsection (g) shall not be void or invalid by reason of the interest described in this subsection (g). Any person violating this subsection (g) shall be removed from office.

(h) Any contract made in violation of subsection (b), (c), (d) or (g) of this Section shall be voidable at the election of the Authority.

(i) A person convicted of a violation of subsection (b), (c), (d) or (g) of this Section is guilty of a business offense and shall be fined not less than $1,000 nor more than $5,000.

(j) The Authority shall adopt regulations governing conflicts of interest with regard to its employees.

Section 4-40. Exemptions. By majority vote of its Board, the Authority may exempt named individuals from the prohibitions of Section 4-35 when, in its judgment, the public interest in having the individual in the service of the Authority outweighs the public policy evidenced in that Section. An exemption is effective only when it is filed with the Secretary of the Authority and includes a statement approved by the Board setting forth the name of the individual and all the pertinent facts that would make that Section applicable, setting forth the reason for the exemption, and declaring the individual exempted from that Section. Notice of each exemption shall be published in the minutes of the meeting at which the exemption was approved.

Section 4-45. Meetings and records. The provisions of the Open Meetings Act and Illinois law concerning availability of public records shall apply to all meetings and records of the Authority.

ARTICLE 5. INTERIM PLANNING

Section 5-5. South Suburban Airport. The Illinois Department of Transportation and the South Suburban Airport Authority shall serve as co-sponsors of the South Suburban Airport until the Federal Aviation Administration issues a record of decision and an environmental impact statement concerning the airport layout plan for the South Suburban Airport or until July 1, 2009, whichever is earlier. Upon the creation of the Authority, the Authority shall enter into an agreement with the Department to complete all ongoing projects, including the Airport Master Plan, and assist the Federal Aviation

Administration in preparing and approving the Environmental Impact Statement and Record of Decision. Thereafter, the South Suburban Airport Authority shall serve as the sponsor of the South Suburban Airport. To the extent otherwise required by law, the Department shall serve as a co-sponsor of the South Suburban Airport.

ARTICLE 6. POWERS

Section 6-5. General airport powers. The Authority has the power to plan, develop, secure permits, licenses, and approvals for, acquire, develop, construct, equip, own, and operate the South Suburban Airport. The Authority also has the power to own, operate, acquire facilities for, construct, improve, repair, maintain, renovate, and expand the South Suburban Airport, including any facilities located on the site of the South Suburban Airport for use by any individual or entity other than the Authority. The development of the South Suburban Airport shall also include all land, highways, waterways, mass transit facilities, and other infrastructure that, in the determination of the Authority, are necessary or appropriate in connection with the development or operation of the South Suburban Airport. The development of the South Suburban Airport also includes acquisition and development of any land or facilities (i) for relocation of persons, including providing replacement housing or facilities for persons and entities displaced by that development, (ii) for protecting or reclaiming the environment with respect to the South Suburban Airport, (iii) for providing substitute or replacement property or facilities, including without limitation, for areas of recreation, conservation, open space, and wetlands, (iv) for providing navigational aids, or (v) for utilities to serve the airport, whether or not located on the site of the South Suburban Airport.

Section 6-10. Land and public waters. The Authority has the power to acquire all land, interests in land, and all other property and interests in property as may be necessary to carry out its powers and functions under this Act and to dispose of any such lands, interests, and property upon terms it deems appropriate.

Section 6-15. Protection of land for future airport development.

(a) The Authority may elect to protect the land needed for future development of the South Suburban Airport and to prevent costly and conflicting development of the land, including any land lying within the ultimate acquisition boundary of the South Suburban Airport. If the Authority elects to protect such land and prevent conflicting development, it shall follow the procedures specified in this Section. There is no requirement that the Authority take any of the actions specified in this Section unless the Authority elects to protect the land needed for the South Suburban Airport.

(b) The Authority shall make a survey and prepare a map showing the location for the South Suburban Airport. The map shall show existing highways in the area involved, the property lines and persons paying the most recent property taxes on land that will be needed for the future additions, and all other pertinent information. A copy of the map shall be filed in the Office of the Recorder for Will County.

Public notice of the location of the South Suburban Airport shall be given by publishing in a newspaper of general circulation in Will County. The notice shall state where the map has been filed. The notice shall also provide notice of the time, date, and location of a public hearing to be held by the Authority in Will County for the purpose of explaining the land protection procedures available to the Authority under the terms of this Section. The notice shall be served by registered mail within 60 days thereafter on all persons shown as having most recently paid the property taxes on the land.

Any material changes in the location of the airport shall be filed and notice given in the manner provided for an original map.

(c) The public hearing required by this Section shall be held not less than 15 days and not more than 45 days after the notice is mailed to all persons shown as having most recently paid the property taxes on the land. At the hearing, the Authority shall explain the land protection procedures available to the Authority under this Section. In addition, any interested person or his or her representative may be heard at the hearing. The Authority shall evaluate the testimony given at the hearing.

(d) After the map is filed, notice of its filing has been given, and a public hearing has been held, as provided in this Section, no one shall incur development costs or place improvements in, upon, or under the land involved nor rebuild, alter, or add to any existing structure without first giving 60-days' notice by registered mail to the Authority. This provision shall not apply to any normal or emergency repairs to existing structures. The Authority shall have 60 days after receipt of that notice to inform the owner of its intention to acquire all or part of the land involved; after which, the Authority shall have the additional time of 120 days to acquire all or part of the land by purchase or to initiate action to acquire

the land through the exercise of the power of eminent domain. When such property is acquired, no damages shall be allowed for any construction, alteration, or addition in violation of this Section unless the Authority has failed to acquire the land by purchase or has abandoned an eminent domain proceeding initiated pursuant to the provisions of this Section.

Any property needed for the South Suburban Airport may be acquired at any time by the Authority. The time of determination of the value of the property to be taken under this Section shall be the date of the actual taking, if the property is acquired by purchase, or the date of the filing of a complaint for condemnation, if the property is acquired through the exercise of eminent domain, rather than the date when the map of the proposed location was filed of record.

Section 6-20. Relocation. The Authority has the power to provide for the relocation of all persons and entities displaced by the development of the South Suburban Airport, including through provision of relocation assistance or the provision of replacement housing or other facilities. The Authority, prior to acquiring any land for the South Suburban Airport that directly results in the displacement of persons or entities, shall adopt a plan for providing for the relocation of the displaced persons and entities not less than the substantial equivalent of that required under federal law for airport projects with federal funding. The Authority shall, with respect to the development, acquisition, and construction of South Suburban Airport, comply with all applicable requirements of federal law and of Illinois law governing agencies of the State of Illinois with respect to relocation of displaced persons and entities from locations in the State of Illinois.

Section 6-25. Contracts. The Authority has the power to enter into all contracts useful for carrying out its purposes and powers, including, without limitation, leases of any of its property or facilities, use agreements with airlines or other airport users relating to the South Suburban Airport, agreements with South Suburban Airport concessionaires, and franchise agreements for use of or access to South Suburban Airport facilities, all with such duration as the Board shall determine.

Section 6-30. Management agreement. The Authority may enter into agreements by which it may provide for various functions relating to management or operation of the South Suburban Airport to be performed on behalf of the Authority by any other person or entity.

Section 6-35. Land and water use controls.

(a) The Authority may adopt, administer, and enforce airport zoning regulations, in the manner provided for political subdivisions under the Airport Zoning Act, with respect to any airport hazard or airport hazard area (as described in that Act) for the South Suburban Airport, regardless of the distance from that airport. The Authority also may request that the Department, or any successor agency, develop hazard zoning regulations in accordance with applicable law. The Authority also may adopt, administer, and enforce zoning regulations governing land and improvements within the Airport Boundaries of the South Suburban Airport for the purpose of ensuring safe and efficient airport operation, all in a manner consistent with the procedures and requirements for municipalities under the Illinois Municipal Code. To ensure that the land usage is compatible with current and future airport development, the Authority's zoning powers apply whether such land is in an unincorporated area or within the boundaries of a municipality or other unit of local government. To the extent the Authority's exercise of its zoning powers authorized by this Act is inconsistent with exercise of any other local unit of government's exercise of zoning powers or laws, the Authority's zoning authority controls. The Authority may also, with the consent of the federal and State resource agencies or any successor agencies as required by law, adopt, administer, and enforce rules and regulations on the use of waterways and flood plains within the Airport Boundaries of the South Suburban Airport as necessary for the development, construction, acquisition, and operation of the South Suburban Airport.

Section 6-40. Eminent Domain.

(a) The Authority may take and acquire possession by eminent domain of any property or interests in property that the Authority is authorized to acquire under this Act with respect to the development of the South Suburban Airport or as needed as provided in Section 6-5 of this Act, whether within or outside the site of that airport.

(b) The power of eminent domain shall be exercised by the Authority only as authorized by resolution of the Authority, and shall extend to all types of interests in property, both real and personal, (including, without limitation, easements for access or open space purposes and rights of concurrent usage of existing or planned facilities) and property held either for public or for private use, including

(notwithstanding any other law to the contrary) property held by any governmental entity, including any property, rights, or easements owned by units of local government, school districts, or forest preserve districts. The powers given to the Authority under this Section include the power to acquire, by condemnation or otherwise, any property used for cemetery purposes within the South Suburban Airport boundaries, and to require that the cemetery be removed to a different location. The powers given to the Authority under this Section include the power to condemn or otherwise acquire (other than by condemnation by quick-take), and to convey, substitute property when the Authority reasonably determines that monetary compensation will not be sufficient or practical just compensation for property acquired by the Authority in connection with the development of the South Suburban Airport. The acquisition of substitute property is declared to be for public use. The Authority shall exercise the power of eminent domain granted in this Section with respect to property located within the State of Illinois in the manner provided for the exercise of the right of eminent domain under the Eminent Domain Act.

(c) No South Suburban Airport property may be subject to taking by condemnation or otherwise by any unit of local government, any other airport authority, or by any agency, instrumentality or political subdivision of the State.

Section 6-45. Employment. No unlawful discrimination, as defined and prohibited in the Illinois Human Rights Act, shall be made in any term or aspect of employment with the Authority.

The Authority shall be subject to the Illinois Human Rights Act and the remedies and procedures established under that Act.

Section 6-50. Employee pensions. The Authority may establish and maintain systems of pensions and retirement benefits for such officers and employees of the Authority as may be designated or described by resolution of the Authority. Such pension systems shall be financed or funded by such means and in such manner as may be determined by the Board to be economically advantageous.

Section 6-55. Approvals. The Authority has the power to apply to the proper authorities of the United States, the State of Illinois, and other governmental entities, as permitted or authorized by applicable law, to obtain any licenses, approvals, or permits reasonably necessary to achieve the purposes of this Act.

Section 6-60. Foreign trade zones. The Authority has the power to apply to the proper authorities of the United States pursuant to appropriate law for permission to establish, operate, maintain, and lease foreign trade zones and sub-zones within the area of the South Suburban Airport and to establish, operate, maintain, and lease such foreign trade zones and sub-zones.

Section 6-65. Police and other services. The Authority has the power to police its property within the site of the South Suburban Airport. The Authority has the power to exercise police powers in respect to that property and in respect to the enforcement of any rule or regulation of the Authority, including the regulation of vehicular traffic, and of the public health and welfare and the sale of alcoholic beverages, including the power to license activities and provide for fees for licenses, and to provide fire protection and emergency medical services at the South Suburban Airport. The Authority has the power, by resolution, to provide for the regulation of the construction and use of buildings and facilities located within the Airport Boundaries of the South Suburban Airport, including, without limitation, any building, fire, and other safety regulation that it may determine to be needed for the protection of public safety and the efficient operation of the Airport. The Authority has the power to contract for, employ and establish, maintain and equip a security force for police, fire, and emergency medical services on property within the Airport Boundaries of the South Suburban Airport. The Authority also has the power to provide or contract for water, sewer, gas, electricity and other utilities for use in connection with development or operation of the Airport.

Section 6-70. Bonding authority. The Authority has the authority to issue bonds as provided in Article 7 of this Act.

Section 6-75. General powers.

(a) Except as otherwise limited by this Act, the Authority shall also have the powers necessary, convenient, or desirable to meet its responsibilities and to carry out its purposes and express powers, including, but not limited to, the following powers:

(1) To sue and be sued.

(2) To invest any funds or any moneys not required for immediate use or disbursement in such manner as the Authority in its discretion determines.

(3) To make, amend, and repeal by action of the Board by-laws, rules and regulations, and resolutions consistent with this Act.

(4) To hold, sell by installment contract, lease as lessor, transfer, or dispose of such real or personal property as it deems appropriate in the exercise of its powers; to provide for use of such property by any user of the South Suburban Airport; and to permit the mortgage, pledge, or other granting of security interests in any leaseholds granted by the Authority.

(5) To enter at reasonable times upon such lands, waters, or premises as in the judgment of the Authority may be necessary, convenient, or desirable for the purpose of making surveys, soundings, borings, and examinations to accomplish any purpose authorized by this Act after having given reasonable notice of such proposed entry to the owners and occupants of such lands, waters, or premises, the Authority being liable only for actual damage caused by such activity.

(6) To require the removal or relocation of any building, railroad, main, pipe, conduit, wire, pole, structure, facility, and equipment on the site of the South Suburban Airport, as may be needed to carry out the powers of the Authority. The Authority shall compensate any owner that is required to remove or relocate a building, railroad, main, pipe, conduit, wire, pole, structure, facility, or equipment as provided by law, without the necessity to secure any approval from the Illinois Commerce Commission for such removal, or for such relocation on the site of the airport.

(7) To make and execute all contracts and other instruments necessary or convenient to the exercise of its powers.

(8) To enter into collective bargaining agreements and contracts of group insurance for the benefit of its employees and to provide for retirement benefits or pensions and other employee benefit arrangements for its employees.

(9) To provide for the insurance of any property, directors, officers, employees, or operations of the Authority against any risk or hazard, to self-insure or participate in joint self-insurance pools or entities to insure against such risk or hazard, and to provide for the indemnification of its directors, officers, employees, contractors, or agents against any and all claims, losses, and related costs.

(10) To pass all resolutions and make all rules and regulations proper or necessary to regulate the use, operation, and maintenance of its property and facilities and, by resolution, to prescribe fines or penalties for violations of such rules and regulations. Those rules and regulations may include, without limitation, the regulation of parking and vehicular traffic. Any resolution providing for any fine or penalty shall be published in pamphlet form or in a newspaper of general circulation in the region. No such resolution shall take effect until 10 days after its publication.

(11) To enter into arbitration arrangements, which may be final and binding.

(b) In each case in which this Act gives the Authority the power to acquire real or personal property, the Authority has the power to acquire such property by contract, purchase, gift, grant, exchange for other property or rights in property, lease (or sublease), or installment or conditional purchase contracts, including a settlement of an eminent domain proceeding, which leases or installment or conditional purchase contracts may provide for consideration to be paid in annual installments during a period not exceeding 40 years. Property may be acquired subject to any conditions, restrictions, liens, or security or other interests of other parties, and the Authority may acquire a joint leasehold, easement, license or other partial interest in such property. Any such acquisition may provide for the assumption of, or agreement to pay, perform, or discharge outstanding or continuing duties, obligations or liabilities of the seller, lessor, donor, or other transferor of, or of the trustee with regard to, such property. In connection with the acquisition of any easement or other property interest that is less than fee simple title, the Authority may indemnify and hold harmless the owners and occupants of such property or interests in property for any and all losses, claims, damages, liabilities, or expenses arising out of use of such property or interests in property.

Section 6-80. Additional powers. The Authority has any additional powers necessary to implement and perform the powers and duties assigned the Authority under this Act. Such additional powers shall not extend to override or abrogate limitations imposed in this Act on the exercise of the Authority's power.

Section 6-85. Regulations. The Authority may adopt regulations governing its exercise of authority in this Act.

ARTICLE 7. FINANCE

Section 7-5. Supervision of finances. The Board shall control the finances of the Authority, including adopting budgets and capital plans, imposing fees and charges, engaging consultants and professional advisors, entering into contracts with airport users of the South Suburban Airport, conveying property, entering into contracts for the acquisition of property or for goods or services (except such contracts as may be entered into on behalf of the Authority pursuant to authorization as delegated by the Board), borrowing money, issuing bonds, and granting security interests in the Authority's revenues. The Board shall establish and may, from time to time, modify the fiscal year of the Authority. The Board shall annually cause the finances of the Authority to be audited by a firm of certified public accountants experienced in auditing public airports.

Section 7-10. Federal funds. The Authority may take all steps consistent with applicable laws to maximize funding for the costs of the South Suburban Airport from grants by the Federal Aviation Administration or any successor agency.

Section 7-15. Budgets. The Board shall annually adopt a current expense budget for each fiscal year. The budget may be modified from time to time in the same manner and upon the same vote as it may be adopted. The budget shall include the Authority's available funds and estimated revenues and shall provide for payment of its obligations and estimated expenditures for the fiscal year, including, without limitation, expenditures for administration, operation, maintenance and repairs, debt service and deposits into reserve and other funds, and capital projects. The total of such obligations and estimated expenditures shall be balanced by the Authority's available funds and estimated revenue for each fiscal year.

Section 7-20. Annual report. For each fiscal year, the Authority shall prepare an annual report setting forth information concerning its activities in the fiscal year and the status of the development of the South Suburban Airport. The annual report shall include the audited financial statements of the Authority for the fiscal year prepared in accordance with generally accepted accounting principles for airports, statistical information relating to traffic and usage of the Airport, the budget for the succeeding fiscal year, and the current capital plan as of the date of the report. Copies of the annual report shall be submitted not later than 120 days after the end of the Authority's fiscal year to each appointing official of directors of the Authority.

Section 7-25. Purchasing.

(a) The Authority shall adopt purchasing regulations. Those regulations shall provide that construction contracts and contracts for supplies, material, equipment, and services or acquisition by the Authority of property (other than real estate), involving in each case a cost of more than $25,000, shall be awarded to the lowest responsive and responsible bidder upon public notice and with public bidding. Each July 1, the $25,000 bid threshold shall be revised for inflation or deflation using the percentage change in the Consumer Price Index for all Urban Consumers as determined by the United States Department of Labor in the latest available month compared with the same value in the previous year, and rounded to the nearest $100.

(b) The Board may adopt regulations to make exceptions to the requirement for public bidding in instances in which it determines bidding is not appropriate, including, without limitation, instances in which the property or service can be obtained only from a single source or for any professional services, or in which various alternative purchasing arrangements are preferable, including, without limitation, prequalification of bidders, negotiation with the lowest responsive and responsible bidder after opening of bids, utilization of other competitive selection procedures in which price is one of the selection criteria, participation in joint purchasing programs with other units of government, or procurement by negotiation or agreement with any airline. Except as set forth below, the Local Government Professional Services Selection Act shall apply to the Authority.

(c) Notwithstanding the foregoing, and as an exception thereto, the Authority may elect to competitively select a contractor or group of contractors to:

(1) allow turnkey design, construction and development of any or all airport facilities on the basis of competitive quality, performance, timing, price and other relevant factors;

(2) operate the airport on the basis of competitive quality, performance, price, and other relevant factors; or

(3) provide a turnkey development of any or all airport facilities and operate the

airport or any part thereof on the basis of competitive quality, performance, timing, price, and other relevant factors.

(d) To promote quality work, promote labor harmony and ensure timely completion of its projects, the Authority may utilize project labor agreements to accomplish its airport improvement projects.

(e) All contracts entered into by or on behalf of the Authority for public works shall:

(1) Require the contractor and all subcontractors to pay the general prevailing rate of wages, including hourly wages and fringe benefits, established in accordance with the Illinois Prevailing Wage Act; and

(2) Require the contractor and all subcontractors to participate in apprenticeship and training programs approved by and registered with the United States Department of Labor's Bureau of Apprenticeship and Training, or any successor entity, to the extent that such programs are reasonably available within the contractor's or subcontractor's employees' trade or trades.

The provisions of this subsection shall not apply to federally funded projects if such application would jeopardize the receipt or use of federal funds in support of such a project.

Section 7-30. Revenues.

(a) The Authority may impose and levy a passenger facility charge or any other fee or charge permitted by the Federal Aviation Administration or United States government or any agency thereof at the South Suburban Airport. The Authority may amend any such applications or approved passenger facility charge program and enter into agreements with the Federal Aviation Administration or the United States government with respect to a passenger facility charge or other fee or charge permitted by the Federal Aviation Administration or the United States government. The Board may impose upon air carriers using the South Suburban Airport the obligation to collect any such charge or fee, to the extent permitted by federal laws or regulations.

(b) The Board may set fees and charges for the use of the South Suburban Airport or any facilities of the South Suburban Airport or any property owned or leased by the Authority, including flowage fees on aviation fuel, and may enter into contracts with users providing for the payment of amounts for the use of the South Suburban Airport or facilities of that airport.

(c) To the extent not specified in this Section, the Authority shall by resolution provide for details of and the method of collecting any fee or charge it imposes under this Section.

(d) In addition to revenues generated by the Authority, the Authority may accept and spend such funds as are provided in government grants, by private developers or from other sources.

Section 7-35. Borrowing.

(a) The Authority has the continuing power to borrow money and to issue its negotiable bonds as provided in this Section. Bonds of the Authority may be issued for any purpose of the Authority, including, without limitation, to plan, develop, construct, acquire, improve, repair, or expand the South Suburban Airport, including facilities to be leased to or used by any individual or entity other than the Authority; to provide funds for operations of the South Suburban Airport; to pay, refund (at the time of or in advance of any maturity or redemption), or redeem any bonds or any revenue bonds or notes issued to finance property for the South Suburban Airport; to provide or increase a debt service reserve fund or other reserves with respect to any or all of its bonds; to pay interest on bonds; or to pay the legal, financial, administrative, bond insurance, credit enhancement, and other expenses of the authorization, issuance, sale, or delivery of bonds.

(b) All bonds issued under this Section shall have a claim for payment solely from one or more funds, revenues, or receipts of the Authority or property interests of any user of facilities financed by the Authority as provided in this Act and from credit enhancement or other security for the bonds, including but not limited to guarantees, letters of credit, or other security or insurance, for the benefit of bond holders. Bonds may be issued in one or more series and may have a claim for payment and be secured either separately or on a parity with any other bonds. Bonds shall be secured as provided in the authorizing resolution, which may include, in addition to any other security, a specific pledge or assignment of or grant of a lien on or security interest in any or all funds and revenues of the Authority and a mortgage or security interest in the leasehold of a user of facilities financed by the bonds. Any such pledge, assignment, lien, or security interest on funds and revenues shall be valid and binding from the times the bonds are issued, without any necessity of physical delivery, filing, recording, or further act, and shall be valid and binding as against and prior to the claims of all other parties having claims of any kind against the Authority or any other person irrespective of whether such other parties have notice of the pledge assignment, lien, or security interest. The Authority may provide for the creation of, deposits in, and regulation and disposition of sinking fund or reserve accounts relating to the bonds. The

Authority may make provision, as part of the contract with the owners of the bonds, for the creation of one or more separate funds to provide for the payment of principal and interest on the bonds and for the deposit in the funds from any one or more sources of revenues of the Authority from whatever source which may by law be utilized for debt service purposes of amounts to meet the debt service requirements on the bonds, including principal and interest and any sinking fund or reserve fund requirements and all expenses incident to or in connection with the fund and accounts or the payment of bonds.

(c) Subject to the provisions of subsection (f) of this Section, the authorizing resolution shall set forth or provide for the terms of the bonds being authorized, including their maturity (which shall not exceed 40 years from their issuance), the provisions for interest on those bonds, the security for those bonds, their redemption provisions, and all covenants or agreements necessary or desirable with regard to the issuance, sale, and security of those bonds.

(d) The authorizing resolution may provide for appointment of a corporate trustee (which may be any trust company or bank having the powers of a trust company within or without the territory of the State of Illinois) with respect to any bonds being issued. The authorizing resolution shall prescribe the rights, duties, and powers of any trustee to be exercised for the benefit of the Authority and the protection of the owners of the bonds and may provide for terms of a trust indenture for the bonds. The authorizing resolution may provide for the trustee to hold in trust, invest, and use amounts in funds and accounts created as provided by the authorizing resolution.

(e) The bonds authorized by any resolution shall be:

(1) payable as to principal and interest on such dates, shall be in the denominations and forms, including book entry form, and shall have the registration and privileges as to exchange, transfer, or conversion and the replacement of mutilated, lost, or destroyed bonds, as the resolution or trust indenture may provide;

(2) payable in lawful money of the United States at a designated place or places;

(3) subject to the terms of purchase, payment, redemption, remarketing, refunding, or refinancing that the resolution or trust indenture provides, including redemption at a premium;

(4) executed by the manual, electronic or facsimile signatures of the officers of the Authority designated by the Board, which signatures shall be valid at delivery even for one who has ceased to hold office; and

(5) sold, at public or private sale, in the manner and upon the terms determined by the authorizing resolution.

(f) By its authorizing resolution for particular bonds, the Board may provide for specific terms of those bonds, including, without limitation, the purchase price and terms, interest rate or rates, redemption terms, and principal amounts maturing in each year, to be established by one or more directors or officers of the Authority, all within a specific range of discretion established by the authorizing resolution. No such delegation shall be made as to the choice of managing or co-managing underwriters or other professional advisors for the Authority.

(g) The authorizing resolution or trust indenture may contain provisions that are a part of the contract with the owners of the bonds that relate to:

(1) limitations on the purposes to which, or the investments in which, the proceeds of the sale of any issue of bonds or the Authority's revenues may be applied or made;

(2) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the terms upon which additional bonds may rank on a parity with, or be subordinate or superior to other bonds;

(3) the refunding, advance refunding, or refinancing of outstanding bonds;

(4) the procedure, if any, by which the terms of any contract with owners of bonds may be altered or amended, the amount of bonds the owners of which must consent to an amendment, and the manner in which consent must be given;

(5) the acts or omissions that constitute a default in the duties of the Authority to owners of bonds and the rights or remedies of owners in the event of a default, which may include provisions restricting individual rights of action by bond owners; and

(6) any other matter relating to the bonds which the Board determines appropriate.

(h) Any bonds of the Authority issued under this Section shall constitute a contract between the Authority and the owners from time to time of the bonds. The Authority may also covenant that it shall impose and continue to impose fees, charges, or taxes (as authorized by this Act and in addition as subsequently authorized by amendment to this Act) sufficient to pay the principal and interest and to meet other debt service requirements of the bonds as they become due.

(i) The State of Illinois pledges and agrees with the owners of the bonds that it will not limit or alter the rights and powers vested in the Authority by this Act so as to impair the terms of any contract made

by the Authority with the owners or in any way impair the rights and remedies of the owners until the bonds, together with interest on them, and all costs and expenses in connection with any action or proceedings by or on behalf of the owners, are fully met and discharged. The Authority is authorized to include this pledge and agreement in any contract with the owners of bonds issued under this section.

Section 7-40. Legal investments. All governmental entities, all public officers, banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business, insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds issued under this Act. However, nothing in this Section shall be construed as relieving any person, firm, or corporation from any duty of exercising reasonable care in selecting securities for purchase or investment.

Section 7-45. Interest swaps. With respect to all or part of any issue of its bonds, the Authority may enter into agreements or contracts with any necessary or appropriate person that will have the benefit of providing to the Authority an interest rate basis, cash flow basis, or other basis different from that provided in the bonds for the payment of interest. Such agreements or contracts may include, without limitation, agreements or contracts commonly known as "interest rate swap agreements", "forward payment conversion agreements", "futures", "options", "puts", or "calls" and agreements or contracts providing for payments based on levels of or changes in interest rates, agreements or contracts to exchange cash flows or a series of payments, or to hedge payment, rate spread, or similar exposure.

Section 7-50. Obligations of other governmental entities. No bonds or other obligations of the Authority shall be a debt or obligation of the State of Illinois or other governmental entity, or treated as indebtedness of the State of Illinois or other governmental entity, or require the levy, imposition, or application of any tax by the State of Illinois or other governmental entity. Amounts appropriated or provided to be appropriated at any time to the Authority from the State of Illinois may not be directly or indirectly pledged or assigned or be subject to a lien or security interest or otherwise promised to be used to pay debt service on any bonds.

Section 7-55. Hiring and contracting practices.

(a) The Authority may adopt an affirmative action program as authorized, permitted, or required by law.

(b) The Authority may adopt a program for contracting with minority and female owned businesses as authorized, permitted, or required by law.

ARTICLE 8. ACQUISITION AND TRANSFER OF STATE AIRPORT PROPERTY AND PAYMENT FOR SUCH PROPERTY

Section 8-5. Completion of property acquisition for the inaugural site. The Department shall continue to acquire the property lying partially or wholly within the inaugural airport boundary. The inaugural boundary is depicted in Figure R-3 in the Federal Aviation Administration's Record of Decision for Tier 1: FAA Site Approval And Land Acquisition By The State Of Illinois, Proposed South Suburban Airport, Will County, Illinois, dated July 2002. The inaugural airport boundary shall be modified to reflect the inaugural airport boundaries in an airport layout plan approved by the Federal Aviation Administration or any other successor agency and as reflected later in any approved airport layout plan. The Department shall acquire such property as quickly as possible, including use of the Department's condemnation powers where it appears reasonably likely that the Department will not be able to acquire such property voluntarily. The Department shall exercise all best efforts to ensure that the property is purchased at fair market value. Upon the creation of the Authority, the Authority shall enter into an agreement with the Department setting forth the terms under which the Department shall complete all ongoing land acquisition.

Section 8-10. Transfer of property to the Authority. All property acquired by the Department for airport purposes either prior to or after the effective date of this Act that is wholly or partially within the inaugural airport site shall be transferred to the South Suburban Airport Authority promptly via an intergovernmental agreement with the Department.

Section 8-15. Payment for transferred property. The Authority shall pay the Department for the value of property lying wholly or partially within the inaugural site that is transferred to the South Suburban Airport Authority. The value of the property shall be the price paid by the Department or fair market value, whichever is less. The payments shall be made out of the proceeds of the first issuance of general airport revenue or other bonds sold to fund construction of the South Suburban Airport. In the event no such bonds are sold within 10 years of the effective date of this Act, title to property lying wholly or partially within the inaugural site that previously was transferred to the South Suburban Airport Authority shall revert to the Department.

Section 8-20. Option to purchase property outside the inaugural site but within the ultimate airport site. Upon the written request of the South Suburban Airport Authority, within 10 years from the effective date of this Act, the Department shall transfer to the South Suburban Airport Authority any parcel of property acquired by the Department of Transportation for airport purposes and lying outside the inaugural airport site but within the airport boundaries, as those locations are described and depicted in Figure R-3 of the Federal Aviation Acquisition's Record of Decision described in Section 8-5. The South Suburban Airport Authority shall pay the Department for the value of property, which value shall be the price paid for the property by the Department. For the period of 10 years from the effective date of this Act, the State of Illinois shall not transfer such property to any other person or entity without first obtaining the written approval of the South Suburban Airport Authority.

ARTICLE 9. INTERGOVERNMENTAL RELATIONS AND LIMITATIONS

Section 9-5. Intergovernmental cooperation. The Authority may enter into agreements with the United States, the State of Illinois, Will County, the Eastern Will County Development District, or any governmental entity, by which powers of the Authority and the other parties may be jointly exercised or pursuant to which the parties otherwise may enjoy the benefits of intergovernmental cooperation.

Section 9-10. Tax exemption. The Authority and all of its operations and property used for public purposes shall be exempt from all taxation of any kind imposed by any governmental entity. This exemption shall not apply to property, including leasehold interests, or operations of any person or entity other than the Authority. Interest on bonds shall not be exempt from tax under the Illinois Income Tax Act.

Section 9-15. Application of laws. The Governmental Account Audit Act, the Foreign Trade Zones Act, and the Public Funds Statement Publication Act shall not apply to the Authority.

Section 9-20. Exclusive powers. The Authority is the only governmental entity that is authorized to develop, construct, own and operate the South Suburban Airport. Notwithstanding any other law, no other unit of local government, including but not limited to municipalities, airport authorities or joint airport commissions, may develop, construct, own or operate an airport on the site identified in this Act as the South Suburban Airport.

ARTICLE 10. PROCEDURES AND LIMITATIONS

Section 10-5. Hearings and citizen participation.

(a) The Authority shall provide for and encourage participation by the public in the development and review of major decisions concerning the development and operation of the South Suburban Airport.

(b) The Authority shall hold such public hearings as may be required by this Act or other law or as it may deem appropriate to the performance of any of its functions.

(c) The Authority shall hold a public hearing prior to the imposition of any zoning regulation.

(d) At least 10 days' notice shall be given of each hearing under this Article in a newspaper of general circulation in the region. The Authority may designate one or more directors or hearing officers to preside over any hearing under this Section.

Section 10-10. Limitation on actions. The Local Governmental and Governmental Employees Tort Immunity Act shall apply to the Authority and all its directors, officers, and employees.

ARTICLE 11. AMENDATORY PROVISIONS

Section 11-5. The Archaeological and Paleontological Resources Protection Act is amended by adding Section 1.75 as follows:

(20 ILCS 3435/1.75 new)

Sec. 1.75. South Suburban Airport. Nothing in this Act limits the authority of the South Suburban Airport Authority to exercise its powers under the South Suburban Airport Authority Act or requires that Authority, or any person acting on its behalf, to obtain a permit under this Act when acquiring property or otherwise exercising its powers under the South Suburban Airport Authority Act.

Section 11-10. The Human Skeletal Remains Protection Act is amended by adding Section 4.75 as follows:

(20 ILCS 3440/4.75 new)

Sec. 4.75. South Suburban Airport. Nothing in this Act limits the authority of the South Suburban Airport Authority to exercise its powers under the South Suburban Airport Authority Act or requires that Authority, or any person acting on its behalf, to obtain a permit under this Act when acquiring property or otherwise exercising its powers under the South Suburban Airport Authority Act.

Section 11-15. The Foreign Trade Zones Act is amended by changing Section 1 as follows:

(50 ILCS 40/1) (from Ch. 24, par. 1361)

Sec. 1. Establishing foreign trade zones.

(A) Each of the following units of local government and public or private corporations shall have the power to apply to proper authorities of the United States of America pursuant to appropriate law for the right to establish, operate, maintain and lease foreign trade zones and sub-zones within its corporate limits or within limits established pursuant to agreement with proper authorities of the United States of America, as the case may be, and to establish, operate, maintain and lease such foreign trade zones and sub-zones:

(a) The City of East St. Louis.

(b) The Bi-State Authority, Lawrenceville - Vincennes Airport.

(c) The Waukegan Port district.

(d) The Illinois Valley Regional Port District.

(e) The Economic Development Council, Inc. located in the area of the United States Customs Port of Entry for Peoria, pursuant to authorization granted by the county boards in the geographic area served by the proposed foreign trade zone.

(f) The Greater Rockford Airport Authority.

(f-5) The South Suburban Airport Authority.

(B) ~~(g)~~ After the effective date of this amendatory Act of 1984, any county, city, village or town within the State or a public or private corporation authorized or licensed to do business in the State or any combination thereof may apply to the Foreign Trade Zones Board, United States Department of Commerce, for the right to establish, operate and maintain a foreign trade zone and sub-zones. For the purposes of this Section, such foreign trade zone or sub-zones may be incorporated outside the corporate boundaries or be made up of areas from adjoining counties or states.

(C) ~~(h)~~ No foreign trade zone may be established within 50 miles of an existing zone situated in a county with 3,000,000 or more inhabitants or within 35 miles of an existing zone situated in a county with less than 3,000,000 inhabitants, such zones having been created pursuant to this Act without the permission of the authorities which established the existing zone.

(Source: P.A. 85-471.)

Section 11-20. The Governmental Account Audit Act is amended by changing Section 1 as follows:

(50 ILCS 310/1) (from Ch. 85, par. 701)

Sec. 1. Definitions. As used in this Act, unless the context otherwise indicates:

"Governmental unit" or "unit" includes all municipal corporations in and political subdivisions of this State that appropriate more than $5,000 for a fiscal year, with the amount to increase or decrease by the amount of the Consumer Price Index (CPI) as reported on January 1 of each year, except the following:

(1) School districts.

(2) Cities, villages, and incorporated towns subject to the Municipal Auditing Law, as contained in the Illinois Municipal Code, and cities that file a report with the Comptroller under Section 3.1-35-115 of the Illinois Municipal Code.

(3) Counties with a population of 1,000,000 or more.

(4) Counties subject to the County Auditing Law.

(5) Any other municipal corporations in or political subdivisions of this State, the

accounts of which are required by law to be audited by or under the direction of the Auditor General.

(6) (Blank).

(7) A drainage district, established under the Illinois Drainage Code (70 ILCS 605), that did not receive or expend any moneys during the immediately preceding fiscal year or obtains approval for assessments and expenditures through the circuit court.

(8) Public housing authorities that submit financial reports to the U.S. Department of Housing and Urban Development.

(9) The South Suburban Airport Authority created under the South Suburban Airport Authority Act.

"Governing body" means the board or other body or officers having authority to levy taxes, make appropriations, authorize the expenditure of public funds or approve claims for any governmental unit.

"Comptroller" means the Comptroller of the State of Illinois.

"Consumer Price Index" means the Consumer Price Index for All Urban Consumers for all items published by the United States Department of Labor.

"Licensed public accountant" means the holder of a valid certificate as a public accountant under the Illinois Public Accounting Act.

"Audit report" means the written report of the licensed public accountant and all appended statements and schedules relating to that report, presenting or recording the findings of an examination or audit of the financial transactions, affairs, or conditions of a governmental unit.

"Report" includes both audit reports and reports filed instead of an audit report by a governmental unit receiving revenue of less than $850,000 during any fiscal year to which the reports relate.
(Source: P.A. 92-191, eff. 8-1-01; 92-582, eff. 7-1-02.)

Section 11-25. The Illinois Municipal Code is amended by changing Section 11-51-1 as follows:

(65 ILCS 5/11-51-1) (from Ch. 24, par. 11-51-1)

Sec. 11-51-1. Cemetery removal. Whenever any cemetery is embraced within the limits of any city, village, or incorporated town, the corporate authorities thereof, if, in their opinion, any good cause exists why such cemetery should be removed, may cause the remains of all persons interred therein to be removed to some other suitable place. However, the corporate authorities shall first obtain the assent of the trustees or other persons having the control or ownership of such cemetery, or a majority thereof. When such cemetery is owned by one or more private parties, or private corporation or chartered society, the corporate authorities of such city may require the removal of such cemetery to be done at the expense of such private parties, or private corporation or chartered society, if such removal be based upon their application. Nothing in this Section limits the powers of the City of Chicago to acquire property or otherwise exercise its powers under Section 15 of the O'Hare Modernization Act. Nothing in this Section limits the power of the South Suburban Airport Authority to acquire property or otherwise exercise its powers under the South Suburban Airport Authority Act.
(Source: P.A. 93-450, eff. 8-6-03.)

Section 11-30. The Downstate Forest Preserve District Act is amended by changing Section 5e as follows:

(70 ILCS 805/5e) (from Ch. 96 1/2, par. 6308e)

Sec. 5e. Property owned by a forest preserve district and property in which a forest preserve district is the grantee of a conservation easement or the grantee of a conservation right as defined in Section 1(a) of the Real Property Conservation Rights Act shall not be subject to eminent domain or condemnation proceedings, except as otherwise provided in Section 15 of the O'Hare Modernization Act and Section 6-40 of the South Suburban Airport Authority Act.
(Source: P.A. 95-111, eff. 8-13-07.)

Section 11-35. The Vital Records Act is amended by changing Section 21 as follows:

(410 ILCS 535/21) (from Ch. 111 1/2, par. 73-21)

Sec. 21. (1) The funeral director or person acting as such who first assumes custody of a dead body or fetus shall make a written report to the registrar of the district in which death occurred or in which the body or fetus was found within 24 hours after taking custody of the body or fetus on a form prescribed and furnished by the State Registrar and in accordance with the rules promulgated by the State Registrar. Except as specified in paragraph (2) of this Section, the written report shall serve as a permit to transport, bury or entomb the body or fetus within this State, provided that the funeral director or person acting as such shall certify that the physician in charge of the patient's care for the illness or condition which resulted in death has been contacted and has affirmatively stated that he will sign the medical certificate of death or the fetal death certificate. If a funeral director fails to file written reports under this Section in

a timely manner, the local registrar may suspend the funeral director's privilege of filing written reports by mail. In a county with a population greater than 3,000,000, if a funeral director or person acting as such inters or entombs a dead body without having previously certified that the physician in charge of the patient's care for the illness or condition that resulted in death has been contacted and has affirmatively stated that he or she will sign the medical certificate of death, then that funeral director or person acting as such is responsible for payment of the specific costs incurred by the county medical examiner in disinterring and reinterring or reentombing the dead body.

(2) The written report as specified in paragraph (1) of this Section shall not serve as a permit to:

(a) Remove body or fetus from this State;

(b) Cremate the body or fetus; or

(c) Make disposal of any body or fetus in any manner when death is subject to the coroner's or medical examiner's investigation.

(3) In accordance with the provisions of paragraph (2) of this Section the funeral director or person acting as such who first assumes custody of a dead body or fetus shall obtain a permit for disposition of such dead human body prior to final disposition or removal from the State of the body or fetus. Such permit shall be issued by the registrar of the district where death occurred or the body or fetus was found. No such permit shall be issued until a properly completed certificate of death has been filed with the registrar. The registrar shall insure the issuance of a permit for disposition within an expedited period of time to accommodate Sunday or holiday burials of decedents whose time of death and religious tenets or beliefs necessitate Sunday or holiday burials.

(4) A permit which accompanies a dead body or fetus brought into this State shall be authority for final disposition of the body or fetus in this State, except in municipalities where local ordinance requires the issuance of a local permit prior to disposition.

(5) A permit for disposition of a dead human body shall be required prior to disinterment of a dead body or fetus, and when the disinterred body is to be shipped by a common carrier. Such permit shall be issued to a licensed funeral director or person acting as such, upon proper application, by the local registrar of the district in which disinterment is to be made. In the case of disinterment, proper application shall include a statement providing the name and address of any surviving spouse of the deceased, or, if none, any surviving children of the deceased, or if no surviving spouse or children, a parent, brother, or sister of the deceased. The application shall indicate whether the applicant is one of these parties and, if so, whether the applicant is a surviving spouse or a surviving child. Prior to the issuance of a permit for disinterment, the local registrar shall, by certified mail, notify the surviving spouse, unless he or she is the applicant, or if there is no surviving spouse, all surviving children except for the applicant, of the application for the permit. The person or persons notified shall have 30 days from the mailing of the notice to object by obtaining an injunction enjoining the issuance of the permit. After the 30-day period has expired, the local registrar shall issue the permit unless he or she has been enjoined from doing so or there are other statutory grounds for refusal. The notice to the spouse or surviving children shall inform the person or persons being notified of the right to seek an injunction within 30 days. Notwithstanding any other provision of this subsection (5), a court may order issuance of a permit for disinterment without notice or prior to the expiration of the 30-day period where the petition is made by an agency of any governmental unit and good cause is shown for disinterment without notice or for the early order. Nothing in this subsection (5) limits the authority of the City of Chicago to acquire property or otherwise exercise its powers under the O'Hare Modernization Act or requires that City, or any person acting on behalf of that City, to obtain a permit under this subsection (5) when exercising powers under the O'Hare Modernization Act. Nothing in this subsection (5) limits the authority of South Suburban Airport Authority to acquire property or otherwise exercise its powers under the South Suburban Airport Authority Act or requires that Authority, or any person acting on its behalf, to obtain a permit under this subsection (5) when exercising powers under the South Suburban Airport Authority Act.

(Source: P.A. 93-450, eff. 8-6-03.)

Section 11-40. The Eminent Domain Act is amended by changing Section 10-5-10 as follows:

(735 ILCS 30/10-5-10) (was 735 ILCS 5/7-102)

Sec. 10-5-10. Parties.

(a) When the right (i) to take private property for public use, without the owner's consent, (ii) to construct or maintain any public road, railroad, plankroad, turnpike road, canal, or other public work or improvement, or (iii) to damage property not actually taken has been or is conferred by general law or special charter upon any corporate or municipal authority, public body, officer or agent, person,

commissioner, or corporation and when (i) the compensation to be paid for or in respect of the property sought to be appropriated or damaged for the purposes mentioned cannot be agreed upon by the parties interested, (ii) the owner of the property is incapable of consenting, (iii) the owner's name or residence is unknown, or (iv) the owner is a nonresident of the State, then the party authorized to take or damage the property so required, or to construct, operate, and maintain any public road, railroad, plankroad, turnpike road, canal, or other public work or improvement, may apply to the circuit court of the county where the property or any part of the property is situated, by filing with the clerk a complaint. The complaint shall set forth, by reference, (i) the complainant's authority in the premises, (ii) the purpose for which the property is sought to be taken or damaged, (iii) a description of the property, and (iv) the names of all persons interested in the property as owners or otherwise, as appearing of record, if known, or if not known stating that fact; and shall pray the court to cause the compensation to be paid to the owner to be assessed.

(b) If it appears that any person not in being, upon coming into being, is, or may become or may claim to be, entitled to any interest in the property sought to be appropriated or damaged, the court shall appoint some competent and disinterested person as guardian ad litem to appear for and represent that interest in the proceeding and to defend the proceeding on behalf of the person not in being. Any judgment entered in the proceeding shall be as effectual for all purposes as though the person was in being and was a party to the proceeding.

(c) If the proceeding seeks to affect the property of persons under guardianship, the guardians shall be made parties defendant.

(d) Any interested persons whose names are unknown may be made parties defendant by the same descriptions and in the same manner as provided in other civil cases.

(e) When the property to be taken or damaged is a common element of property subject to a declaration of condominium ownership, pursuant to the Condominium Property Act, or of a common interest community, the complaint shall name the unit owners' association in lieu of naming the individual unit owners and lienholders on individual units. Unit owners, mortgagees, and other lienholders may intervene as parties defendant. For the purposes of this Section, "common interest community" has the same meaning as set forth in subsection (c) of Section 9-102 of the Code of Civil Procedure. "Unit owners' association" or "association" shall refer to both the definition contained in Section 2 of the Condominium Property Act and subsection (c) of Section 9-102 of the Code of Civil Procedure.

(f) When the property is sought to be taken or damaged by the State for the purposes of establishing, operating, or maintaining any State house or State charitable or other institutions or improvements, the complaint shall be signed by the Governor, or the Governor's designee, or as otherwise provided by law.

(g) No property~~,~~ (except property described in Section 3 of the Sports Stadium Act, property to be acquired in furtherance of actions under Article 11, Divisions 124, 126, 128, 130, 135, 136, and 139, of the Illinois Municipal Code, property to be acquired in furtherance of actions under Section 3.1 of the Intergovernmental Cooperation Act, property to be acquired that is a water system or waterworks pursuant to the home rule powers of a unit of local government, ~~and~~ property described as Site B in Section 2 of the Metropolitan Pier and Exposition Authority Act, and property that may be taken as provided in the South Suburban Airport Authority Act) belonging to a railroad or other public utility subject to the jurisdiction of the Illinois Commerce Commission may be taken or damaged, pursuant to the provisions of this Act, without the prior approval of the Illinois Commerce Commission.
(Source: P.A. 94-1055, eff. 1-1-07; incorporates P.A. 94-1007, eff. 1-1-07; 95-331, eff. 8-21-07.)

Section 11-45. The Religious Freedom Restoration Act is amended by changing Section 30 as follows:

(775 ILCS 35/30)

Sec. 30. O'Hare Modernization and South Suburban Airport. Nothing in this Act limits the authority of the City of Chicago to exercise its powers under the O'Hare Modernization Act, or the South Suburban Airport Authority to exercise its powers under the South Suburban Airport Authority Act, for the purposes of relocation of cemeteries or the graves located therein.
(Source: P.A. 93-450, eff. 8-6-03.)

ARTICLE 12. SEVERABILITY

Section 12-5. Severability. The provisions of this Act are severable under Section 1.31 of the Statute of Statutes. The provisions of this Act shall be reasonably and liberally construed to achieve the purposes for the establishment of the Authority.

ARTICLE 13. STATE MANDATES ACT

Section 13-5. The State Mandates Act is amended by adding Section 8.32 as follows:
(30 ILCS 805/8.32 new)
Sec. 8.32. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by the South Suburban Airport Authority Act.

ARTICLE 99. EFFECTIVE DATE

Section 99-99. Effective date. This Act takes effect January 1, 2009.".

The motion prevailed.
And the amendment was adopted and ordered printed.
There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Haine, **Senate Bill No. 2079** having been printed, was taken up, read by title a second time.
Senator Haine offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2079
AMENDMENT NO. 1. Amend Senate Bill 2079 by replacing everything after the enacting clause with the following:

"Section 5. The Drilling Operations Act is amended by changing Sections 2, 3, and 4 as follows:
(765 ILCS 530/2) (from Ch. 96 1/2, par. 9652)
Sec. 2. As used in this Act:
(a) "Person" means any natural person, corporation, firm, partnership, venture, receiver, trustee, executor, administrator, guardian, fiduciary or other representative of any kind and includes any government or any political subdivision or agency thereof;
(b) "Drilling operations" means the drilling, deepening or conversion of a well for oil or gas production, core hole or drill hole for a stratigraphic test;
(c) "Entry" means the moving upon the surface of land with equipment to commence drilling operations, but shall not include entry for the survey for or ascertaining or identification of a well location;
(d) "Operator" means the person, whether the owner or not, who applies for or holds a permit for drilling operations or who is named as the principal on a bond for a permit for a well that was issued by the Department of Natural Resources;
(e) "Surface owner" means the person in whose name the surface of the land on which drilling operations are contemplated, and who is assessed for purposes of taxes imposed pursuant to the Property Tax Code according to the records of the assessor of the county where the land is located as certified by said assessor;
(f) "Assessor" means the supervisor of assessments, board of assessors, or county assessor, as the case may be, for the county in which the land is located;
(g) "Production operation" means the operation of a well for the production of oil, ~~or~~ gas , and coalbed methane, including all acts, structures, equipment, and roadways necessary for such operation;
(h) "New well" means a well that is spudded after the effective date of this Act and does not utilize any part of a well bore or drilling location that existed prior to the effective date of this Act;
(i) "Completion of the well" means completion of those processes necessary before production occurs, including the laying of flow lines and the construction of the tank battery. If the well is not productive, the date of completion of the well is the day it is plugged and abandoned.
(Source: P.A. 88-670, eff. 12-2-94; 89-445, eff. 2-7-96.)
(765 ILCS 530/3) (from Ch. 96 1/2, par. 9653)
Sec. 3. This Act shall be applicable only for the drilling operations of new wells except as explicitly provided in paragraph (c) of Section 6. It shall not apply for reworking operations on a well.
This Act shall be applicable only when the surface owner has not consented in writing to the drilling operations and:

(A) there has been a complete severance of the ownership of the oil, ~~and~~ gas , and coalbed methane from the ownership of the surface, or

(B) where the surface owner owns an interest in the oil, ~~and~~ gas , and coalbed methane, which interest is the subject of either:

(1) An integration proceeding brought pursuant to "An Act in relation to oil, gas, coal, and other surface and underground resources and to repeal an Act herein named", approved July 24, 1945, as amended, or

(2) A proceeding brought pursuant to "An Act in relation to oil and gas interest in land", approved July 1, 1939, as amended.

(Source: P.A. 85-1312.)

(765 ILCS 530/4) (from Ch. 96 1/2, par. 9654)

Sec. 4. Notice.

(a) Prior to commencement of the drilling of a well, the operator shall give a copy of the Act with a written notice to the surface owner of the operator's intent to commence drilling operations.

(b) The operator shall, for the purpose of giving notice as herein required, secure from the assessor's office within 90 days prior to the giving of the notice, a certification which shall identify the person in whose name the lands on which drilling operations are to be commenced and who is assessed at the time the certification is made. The written certification made by the assessor of the surface owner shall be conclusive evidence of the surface ownership and of the operator's compliance with the provisions of this Act.

(c) The notice required to be given by the operator to the surface owner shall identify the following:

(1) The location of the proposed entry on the surface for drilling operations, and the date on or after which drilling operations shall be commenced.

(2) A photocopy of the drilling application to the Department of Natural Resources for the well to be drilled.

(3) The name, address and telephone number of the operator.

(4) An offer to discuss with the surface owner those matters set forth in Section 5 hereof prior to commencement of drilling operations.

If the surface owner elects to meet the operator, the surface owner shall request the operator to schedule a meeting at a mutually agreed time and place within the limitations set forth herein. Failure of the surface owner to contact the operator at least 5 days prior to the proposed commencement of drilling operations shall be conclusively deemed a waiver of the right to meet by the surface owner.

The meeting shall be scheduled between the hours of 9:00 in the morning and the setting of the sun of the same day and shall be at least 3 days prior to commencement of drilling operations. Unless agreed to otherwise, the place shall be located within the county in which drilling operations are to be commenced where the operator or his agent shall be available to discuss with the surface owner or his agent those matters set forth in Section 5 hereof.

The notice and a copy of the Act as herein required shall be given to the surface owner by either:

(A) certified mail addressed to the surface owner at the address shown in the certification obtained from the assessor, which shall be postmarked at least 15 ~~10~~ days prior to the commencement of drilling operations; or

(B) personal delivery to the surface owner at least 15 ~~8~~ days prior to the commencement of drilling operations.

(C) Notice to the surface owner as defined in this Act shall be deemed conclusive notice to the record owners of all interest in the surface.

(Source: P.A. 95-331, eff. 8-21-07; 95-493, eff. 1-1-08.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

At the hour of 4:56 o'clock p.m., Senator Halvorson presiding.

On motion of Senator Collins, **Senate Bill No. 2083** having been printed, was taken up, read by title a second time.

Senator Collins offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2083

AMENDMENT NO. 1. Amend Senate Bill 2083 on page 7, by deleting lines 6 through 8; and

on page 7, line 9, by replacing "(4)" with "(3)"; and

by deleting everything from line 16 on page 7 through line 12 on page 8; and

on page 14, by replacing lines 11 through 18 with "(c)(5)."; and

on page 19, by deleting lines 9 through 13.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Haine, **Senate Bill No. 2091** having been printed, was taken up, read by title a second time.

The following amendments were offered in the Committee on Education, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 2091

AMENDMENT NO. 1. Amend Senate Bill 2091 by replacing everything after the enacting clause with the following:

"Section 5. The Counties Code is amended by changing Section 3-9005 as follows:
(55 ILCS 5/3-9005) (from Ch. 34, par. 3-9005)
Sec. 3-9005. Powers and duties of State's attorney.
(a) The duty of each State's attorney shall be:

(1) To commence and prosecute all actions, suits, indictments and prosecutions, civil and criminal, in the circuit court for his county, in which the people of the State or county may be concerned.

(2) To prosecute all forfeited bonds and recognizances, and all actions and proceedings for the recovery of debts, revenues, moneys, fines, penalties and forfeitures accruing to the State or his county, or to any school district or road district in his county; also, to prosecute all suits in his county against railroad or transportation companies, which may be prosecuted in the name of the People of the State of Illinois.

(3) To commence and prosecute all actions and proceedings brought by any county officer in his official capacity.

(4) To defend all actions and proceedings brought against his county, or against any county or State officer, in his official capacity, within his county.

(5) To attend the examination of all persons brought before any judge on habeas corpus, when the prosecution is in his county.

(6) To attend before judges and prosecute charges of felony or misdemeanor, for which the offender is required to be recognized to appear before the circuit court, when in his power so to do.

(7) To give his opinion, without fee or reward, to any county officer in his county, upon any question or law relating to any criminal or other matter, in which the people or the county may be concerned.

(8) To assist the attorney general whenever it may be necessary, and in cases of appeal from his county to the Supreme Court, to which it is the duty of the attorney general to attend, he shall furnish the attorney general at least 10 days before such is due to be filed, a manuscript of a proposed statement, brief and argument to be printed and filed on behalf of the people, prepared in accordance with the rules of the Supreme Court. However, if such brief, argument or other document is due to be filed by law or order of court within this 10 day period, then the State's attorney shall furnish such as

soon as may be reasonable.

(9) To pay all moneys received by him in trust, without delay, to the officer who by law is entitled to the custody thereof.

(10) To notify, by first class mail, complaining witnesses of the ultimate disposition of the cases arising from an indictment or an information.

(11) To perform such other and further duties as may, from time to time, be enjoined on him by law.

(12) To appear in all proceedings by collectors of taxes against delinquent taxpayers for judgments to sell real estate, and see that all the necessary preliminary steps have been legally taken to make the judgment legal and binding.

(13) To notify, by first-class mail, the State Superintendent of Education, the applicable regional superintendent of schools, and the superintendent of the employing school district, if any, upon the conviction of any individual known to possess a certificate issued pursuant to Article 21 of the School Code of any offense set forth in Section 21-23a of the School Code or any other felony conviction, providing the name of the certificate holder, the fact of the conviction, and the name and location of the court where the conviction occurred. The certificate holder must also be contemporaneously sent a copy of the notice.

(b) The State's Attorney of each county shall have authority to appoint one or more special investigators to serve subpoenas, make return of process and conduct investigations which assist the State's Attorney in the performance of his duties. A special investigator shall not carry firearms except with permission of the State's Attorney and only while carrying appropriate identification indicating his employment and in the performance of his assigned duties.

Subject to the qualifications set forth in this subsection, special investigators shall be peace officers and shall have all the powers possessed by investigators under the State's Attorneys Appellate Prosecutor's Act.

No special investigator employed by the State's Attorney shall have peace officer status or exercise police powers unless he or she successfully completes the basic police training course mandated and approved by the Illinois Law Enforcement Training Standards Board or such board waives the training requirement by reason of the special investigator's prior law enforcement experience or training or both. Any State's Attorney appointing a special investigator shall consult with all affected local police agencies, to the extent consistent with the public interest, if the special investigator is assigned to areas within that agency's jurisdiction.

Before a person is appointed as a special investigator, his fingerprints shall be taken and transmitted to the Department of State Police. The Department shall examine its records and submit to the State's Attorney of the county in which the investigator seeks appointment any conviction information concerning the person on file with the Department. No person shall be appointed as a special investigator if he has been convicted of a felony or other offense involving moral turpitude. A special investigator shall be paid a salary and be reimbursed for actual expenses incurred in performing his assigned duties. The county board shall approve the salary and actual expenses and appropriate the salary and expenses in the manner prescribed by law or ordinance.

(c) The State's Attorney may request and receive from employers, labor unions, telephone companies, and utility companies location information concerning putative fathers and noncustodial parents for the purpose of establishing a child's paternity or establishing, enforcing, or modifying a child support obligation. In this subsection, "location information" means information about (i) the physical whereabouts of a putative father or noncustodial parent, (ii) the putative father or noncustodial parent's employer, or (iii) the salary, wages, and other compensation paid and the health insurance coverage provided to the putative father or noncustodial parent by the employer of the putative father or noncustodial parent or by a labor union of which the putative father or noncustodial parent is a member.

(d) For each State fiscal year, the State's Attorney of Cook County shall appear before the General Assembly and request appropriations to be made from the Capital Litigation Trust Fund to the State Treasurer for the purpose of providing assistance in the prosecution of capital cases in Cook County and for the purpose of providing assistance to the State in post-conviction proceedings in capital cases under Article 122 of the Code of Criminal Procedure of 1963 and in relation to petitions filed under Section 2-1401 of the Code of Civil Procedure in relation to capital cases. The State's Attorney may appear before the General Assembly at other times during the State's fiscal year to request supplemental appropriations from the Trust Fund to the State Treasurer.

(e) The State's Attorney shall have the authority to enter into a written agreement with the Department of Revenue for pursuit of civil liability under Section 17-1a of the Criminal Code of 1961 against persons who have issued to the Department checks or other orders in violation of the provisions of

paragraph (d) of subsection (B) of Section 17-1 of the Criminal Code of 1961, with the Department to retain the amount owing upon the dishonored check or order along with the dishonored check fee imposed under the Uniform Penalty and Interest Act, with the balance of damages, fees, and costs collected under Section 17-1a of the Criminal Code of 1961 to be retained by the State's Attorney. The agreement shall not affect the allocation of fines and costs imposed in any criminal prosecution.
(Source: P.A. 92-492, eff. 1-1-02; 93-972, eff. 8-20-04.)

Section 10. The School Code is amended by changing Sections 3-11, 10-21.9, 10-22.39, 21-1, 21-23, 21-23a, and 34-18.5 as follows:

(105 ILCS 5/3-11) (from Ch. 122, par. 3-11)

Sec. 3-11. Institutes or inservice training workshops. In counties of less than 2,000,000 inhabitants, the regional superintendent may arrange for or conduct district, regional, or county institutes, or equivalent professional educational experiences, not more than 4 days annually. Of those 4 days, 2 days may be used as a teacher's workshop, when approved by the regional superintendent, up to 2 days may be used for conducting parent-teacher conferences or up to 2 days may be utilized as parental institute days as provided in Section 10-22.18d. A school district may use one of its 4 institute days on the last day of the school term. "Institute" or "Professional educational experiences" means any educational gathering, demonstration of methods of instruction, visitation of schools or other institutions or facilities, sexual abuse and sexual assault awareness seminar, or training in First Aid (which may include cardiopulmonary resuscitation or defibrillator training) held or approved by the regional superintendent and declared by him to be an institute day, or parent-teacher conferences. With the concurrence of the State Superintendent of Education, he or she may employ such assistance as is necessary to conduct the institute. Two or more adjoining counties may jointly hold an institute. Institute instruction shall be free to holders of certificates good in the county or counties holding the institute, and to those who have paid an examination fee and failed to receive a certificate.

In counties of 2,000,000 or more inhabitants, the regional superintendent may arrange for or conduct district, regional, or county inservice training workshops, or equivalent professional educational experiences, not more than 4 days annually. Of those 4 days, 2 days may be used for conducting parent-teacher conferences and up to 2 days may be utilized as parental institute days as provided in Section 10-22.18d. A school district may use one of those 4 days on the last day of the school term. "Inservice Training Workshops" or "Professional educational experiences" means any educational gathering, demonstration of methods of instruction, visitation of schools or other institutions or facilities, sexual abuse and sexual assault awareness seminar, or training in First Aid (which may include cardiopulmonary resuscitation or defibrillator training) held or approved by the regional superintendent and declared by him to be an inservice training workshop, or parent-teacher conferences. With the concurrence of the State Superintendent of Education, he may employ such assistance as is necessary to conduct the inservice training workshop. With the approval of the regional superintendent, 2 or more adjoining districts may jointly hold an inservice training workshop. In addition, with the approval of the regional superintendent, one district may conduct its own inservice training workshop with subject matter consultants requested from the county, State or any State institution of higher learning.

Such teachers institutes as referred to in this Section may be held on consecutive or separate days at the option of the regional superintendent having jurisdiction thereof.

Whenever reference is made in this Act to "teachers institute", it shall be construed to include the inservice training workshops or equivalent professional educational experiences provided for in this Section.

Any institute advisory committee existing on April 1, 1995, is dissolved and the duties and responsibilities of the institute advisory committee are assumed by the regional office of education advisory board.

Districts providing inservice training programs shall constitute inservice committees, 1/2 of which shall be teachers, 1/4 school service personnel and 1/4 administrators to establish program content and schedules.

The teachers institutes shall include teacher training committed to <u>(i)</u> peer counseling programs and other anti-violence and conflict resolution programs, including without limitation programs for preventing at risk students from committing violent acts<u>, and (ii) educator ethics and teacher-student conduct</u>.
(Source: P.A. 94-197, eff. 7-12-05.)

(105 ILCS 5/10-21.9) (from Ch. 122, par. 10-21.9)

Sec. 10-21.9. Criminal history records checks and checks of the Statewide Sex Offender Database and Statewide Child Murderer and Violent Offender Against Youth Database.

(a) Certified and noncertified applicants for employment with a school district, except school bus driver applicants, are required as a condition of employment to authorize a fingerprint-based criminal history records check to determine if such applicants have been convicted of any of the enumerated criminal or drug offenses in subsection (c) of this Section or have been convicted, within 7 years of the application for employment with the school district, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State. Authorization for the check shall be furnished by the applicant to the school district, except that if the applicant is a substitute teacher seeking employment in more than one school district, a teacher seeking concurrent part-time employment positions with more than one school district (as a reading specialist, special education teacher or otherwise), or an educational support personnel employee seeking employment positions with more than one district, any such district may require the applicant to furnish authorization for the check to the regional superintendent of the educational service region in which are located the school districts in which the applicant is seeking employment as a substitute or concurrent part-time teacher or concurrent educational support personnel employee. Upon receipt of this authorization, the school district or the appropriate regional superintendent, as the case may be, shall submit the applicant's name, sex, race, date of birth, social security number, fingerprint images, and other identifiers, as prescribed by the Department of State Police, to the Department. The regional superintendent submitting the requisite information to the Department of State Police shall promptly notify the school districts in which the applicant is seeking employment as a substitute or concurrent part-time teacher or concurrent educational support personnel employee that the check of the applicant has been requested. The Department of State Police and the Federal Bureau of Investigation shall furnish, pursuant to a fingerprint-based criminal history records check, records of convictions, until expunged, to the president of the school board for the school district that requested the check, or to the regional superintendent who requested the check. The Department shall charge the school district or the appropriate regional superintendent a fee for conducting such check, which fee shall be deposited in the State Police Services Fund and shall not exceed the cost of the inquiry; and the applicant shall not be charged a fee for such check by the school district or by the regional superintendent. Subject to appropriations for these purposes, the State Superintendent of Education shall reimburse school districts and regional superintendents for fees paid to obtain criminal history records checks under this Section.

(a-5) The school district or regional superintendent shall further perform a check of the Statewide Sex Offender Database, as authorized by the Sex Offender Community Notification Law, for each applicant.

(a-6) The school district or regional superintendent shall further perform a check of the Statewide Child Murderer and Violent Offender Against Youth Database, as authorized by the Child Murderer and Violent Offender Against Youth Community Notification Law, for each applicant.

(b) Any information concerning the record of convictions obtained by the president of the school board or the regional superintendent shall be confidential and may only be transmitted to the superintendent of the school district or his designee, the appropriate regional superintendent if the check was requested by the school district, the presidents of the appropriate school boards if the check was requested from the Department of State Police by the regional superintendent, the State Superintendent of Education, the State Teacher Certification Board or any other person necessary to the decision of hiring the applicant for employment. A copy of the record of convictions obtained from the Department of State Police shall be provided to the applicant for employment. Upon the check of the Statewide Sex Offender Database, the school district or regional superintendent shall notify an applicant as to whether or not the applicant has been identified in the Database as a sex offender. If a check of an applicant for employment as a substitute or concurrent part-time teacher or concurrent educational support personnel employee in more than one school district was requested by the regional superintendent, and the Department of State Police upon a check ascertains that the applicant has not been convicted of any of the enumerated criminal or drug offenses in subsection (c) or has not been convicted, within 7 years of the application for employment with the school district, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State and so notifies the regional superintendent and if the regional superintendent upon a check ascertains that the applicant has not been identified in the Sex Offender Database as a sex offender, then the regional superintendent shall issue to the applicant a certificate evidencing that as of the date specified by the Department of State Police the applicant has not been convicted of any of the enumerated criminal or drug offenses in subsection (c) or has not been convicted, within 7 years of the application for employment with the school district, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if

committed or attempted in this State, would have been punishable as a felony under the laws of this State and evidencing that as of the date that the regional superintendent conducted a check of the Statewide Sex Offender Database, the applicant has not been identified in the Database as a sex offender. The school board of any school district may rely on the certificate issued by any regional superintendent to that substitute teacher, concurrent part-time teacher, or concurrent educational support personnel employee or may initiate its own criminal history records check of the applicant through the Department of State Police and its own check of the Statewide Sex Offender Database as provided in subsection (a). Any person who releases any confidential information concerning any criminal convictions of an applicant for employment shall be guilty of a Class A misdemeanor, unless the release of such information is authorized by this Section.

(c) No school board shall knowingly employ a person who has been convicted of any offense that would subject him or her to certification suspension or revocation pursuant to Section 21-23a of this Code. ~~for committing attempted first degree murder or for committing or attempting to commit first degree murder or a Class X felony or any one or more of the following offenses: (i) those defined in Sections 11-6, 11-9, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15 and 12-16 of the Criminal Code of 1961; (ii) those defined in the Cannabis Control Act except those defined in Sections 4(a), 4(b) and 5(a) of that Act; (iii) those defined in the Illinois Controlled Substances Act; (iv) those defined in the Methamphetamine Control and Community Protection Act; and (v) any offense committed or attempted in any other state or against the laws of the United States, which if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses.~~ Further, no school board shall knowingly employ a person who has been found to be the perpetrator of sexual or physical abuse of any minor under 18 years of age pursuant to proceedings under Article II of the Juvenile Court Act of 1987.

(d) No school board shall knowingly employ a person for whom a criminal history records check and a Statewide Sex Offender Database check has not been initiated.

(e) Upon receipt of the record of a conviction of or a finding of child abuse by a holder of any certificate issued pursuant to Article 21 or Section 34-8.1 or 34-83 of the School Code, the ~~appropriate regional superintendent of schools or the~~ State Superintendent of Education may ~~shall~~ initiate ~~the~~ certificate suspension and revocation proceedings as authorized by law.

(e-5) The superintendent of the employing school district shall, in writing, notify the State Superintendent of Education and the applicable regional superintendent of schools of any certificate holder whom he or she has reasonable cause to believe has committed an intentional act of abuse or neglect with the result of making a child an abused child or a neglected child, as defined in Section 3 of the Abused and Neglected Child Reporting Act, and that act resulted in the certificate holder's dismissal or resignation from the school district. This notification must be submitted within 30 days after the dismissal or resignation. The certificate holder must also be contemporaneously sent a copy of the notice by the superintendent. All correspondence, documentation, and other information so received by the regional superintendent of schools, the State Superintendent of Education, the State Board of Education, or the State Teacher Certification Board under this subsection (e-5) is confidential and must not be disclosed to third parties, except (i) as necessary for the State Superintendent of Education or his or designee to investigate and prosecute pursuant to Article 21 of this Code, (ii) pursuant to a court order, (iii) for disclosure to the certificate holder or his or her representative, or (iv) as otherwise provided in this Code and provided that any such information admitted into evidence in a hearing is exempt from this confidentiality and non-disclosure requirement. Any superintendent who in good faith provides notification as required in this subsection (e-5) shall have immunity from any liability, whether civil or criminal or that otherwise might result by reason of such action. For the purpose of any proceeding, civil or criminal, the good faith of a superintendent must be presumed.

(f) After January 1, 1990 the provisions of this Section shall apply to all employees of persons or firms holding contracts with any school district including, but not limited to, food service workers, school bus drivers and other transportation employees, who have direct, daily contact with the pupils of any school in such district. For purposes of criminal history records checks and checks of the Statewide Sex Offender Database on employees of persons or firms holding contracts with more than one school district and assigned to more than one school district, the regional superintendent of the educational service region in which the contracting school districts are located may, at the request of any such school district, be responsible for receiving the authorization for a criminal history records check prepared by each such employee and submitting the same to the Department of State Police and for conducting a check of the Statewide Sex Offender Database for each employee. Any information concerning the record of conviction and identification as a sex offender of any such employee obtained by the regional superintendent shall be promptly reported to the president of the appropriate school board or school

boards.
(Source: P.A. 94-219, eff. 7-14-05; 94-556, eff. 9-11-05; 94-875, eff. 7-1-06; 94-945, eff. 6-27-06; 95-331, eff. 8-21-07.)

(105 ILCS 5/10-22.39) (from Ch. 122, par. 10-22.39)

Sec. 10-22.39. In-service training programs.

(a) To conduct in-service training programs for teachers.

(b) In addition to other topics at in-service training programs, school guidance counselors, teachers and other school personnel who work with pupils in grades 7 through 12 shall be trained to identify the warning signs of suicidal behavior in adolescents and teens and shall be taught appropriate intervention and referral techniques.

(c) School guidance counselors, nurses, teachers and other school personnel who work with pupils may be trained to have a basic knowledge of matters relating to acquired immunodeficiency syndrome (AIDS), including the nature of the disease, its causes and effects, the means of detecting it and preventing its transmission, and the availability of appropriate sources of counseling and referral, and any other information that may be appropriate considering the age and grade level of such pupils. The School Board shall supervise such training. The State Board of Education and the Department of Public Health shall jointly develop standards for such training.

(d) In this subsection (d):

"Domestic violence" means abuse by a family or household member, as "abuse" and "family or household members" are defined in Section 103 of the Illinois Domestic Violence Act of 1986.

"Sexual violence" means sexual assault, abuse, or stalking of an adult or minor child proscribed in the Criminal Code of 1961 in Sections 12-7.3, 12-7.4, 12-7.5, 12-12, 12-13, 12-14, 12-14.1, 12-15, and 12-16, including sexual violence committed by perpetrators who are strangers to the victim and sexual violence committed by perpetrators who are known or related by blood or marriage to the victim.

At least once every 2 years, an in-service training program for school personnel who work with pupils, including, but not limited to, school and school district administrators, teachers, school guidance counselors, school social workers, school counselors, school psychologists, and school nurses, must be conducted by persons with expertise in domestic and sexual violence and the needs of expectant and parenting youth and shall include training concerning (i) communicating with and listening to youth victims of domestic or sexual violence and expectant and parenting youth, (ii) connecting youth victims of domestic or sexual violence and expectant and parenting youth to appropriate in-school services and other agencies, programs, and services as needed, and (iii) implementing the school district's policies, procedures, and protocols with regard to such youth, including confidentiality. At a minimum, school personnel must be trained to understand, provide information and referrals, and address issues pertaining to youth who are parents, expectant parents, or victims of domestic or sexual violence.

(e) At least once every 2 years, a school board shall conduct in-service training on educator ethics, teacher-student conduct, and school employee-student conduct for all personnel.
(Source: P.A. 95-558, eff. 8-30-07.)

(105 ILCS 5/21-1) (from Ch. 122, par. 21-1)

Sec. 21-1. Qualification of teachers. No one may be certified to teach or supervise in the public schools of this State who is not of good character, of good health, a citizen of the United States or legally present and authorized for employment, and at least 19 years of age. No one may be certified to teach or supervise in the public schools of this State who has been convicted of an offense set forth in Section 21-23a of this Code. An applicant for a certificate who is not a citizen of the United States must sign and file with the State Board of Education a letter of intent indicating that either (i) within 10 years after the date that the letter is filed or (ii) at the earliest opportunity after the person becomes eligible to apply for U.S. citizenship, the person will apply for U.S. citizenship.

Citizenship is not required for the issuance of a temporary part-time certificate to participants in approved training programs for exchange students as described in Section 21-10.2. A certificate issued under this plan shall expire on June 30 following the date of issue. One renewal for one year is authorized if the holder remains as an official participant in an approved exchange program.

In determining good character under this Section, any felony conviction of the applicant may be taken into consideration, but, unless the conviction is an offense set forth in Section 21-23a of this Code, an applicant must be permitted to submit character references or other written material before such a conviction or other information regarding the applicant's character may be used by the State Superintendent of Education as a basis for denying the application ~~shall not operate as a bar to registration~~.

No person otherwise qualified shall be denied the right to be certified, to receive training for the purpose of becoming a teacher or to engage in practice teaching in any school because of a physical

disability including but not limited to visual and hearing disabilities; nor shall any school district refuse to employ a teacher on such grounds, provided that the person is able to carry out the duties of the position for which he applies.

No person may be granted or continue to hold a teaching certificate who has knowingly altered or misrepresented his or her teaching qualifications in order to acquire the certificate. Any other certificate held by such person may be suspended or revoked by the State Teacher Certification Board, depending upon the severity of the alteration or misrepresentation.

No one may teach or supervise in the public schools nor receive for teaching or supervising any part of any public school fund, who does not hold a certificate of qualification granted by the State Board of Education or by the State Teacher Certification Board and a regional superintendent of schools as hereinafter provided, or by the board of education of a city having a population exceeding 500,000 inhabitants except as provided in Section 34-6 and in Section 10-22.34 or Section 10-22.34b. However, the provisions of this Article do not apply to a member of the armed forces who is employed as a teacher of subjects in the Reserve Officer's Training Corps of any school. Sections 21-2 through 21-24 do not apply to cities having a population exceeding 500,000 inhabitants, until July 1, 1988.

Notwithstanding any other provision of this Act, the board of education of any school district may grant to a teacher of the district a leave of absence with full pay for a period of not more than one year to permit such teacher to teach in a foreign state under the provisions of the Exchange Teacher Program established under Public Law 584, 79th Congress, and Public Law 402, 80th Congress, as amended. The school board granting such leave of absence may employ with or without pay a national of the foreign state wherein the teacher on leave of absence will teach, if the national is qualified to teach in that foreign state, and if that national will teach in a grade level similar to the one which was taught in such foreign state. The State Board of Education shall promulgate and enforce such reasonable rules as may be necessary to effectuate this paragraph.

(Source: P.A. 93-572, eff. 1-1-04.)

(105 ILCS 5/21-23) (from Ch. 122, par. 21-23)

Sec. 21-23. Suspension or revocation of certificate.

(a) The State Superintendent of Education has the exclusive authority, in accordance with this Section and any rules adopted by the State Board of Education, to initiate the suspension of up to 5 calendar years or revocation of any ~~Any~~ certificate issued pursuant to this Article, including but not limited to any administrative certificate or endorsement, for abuse or neglect of a child, ~~may be suspended for a period not to exceed one calendar year by the regional superintendent or for a period not to exceed 5 calendar years by the State Superintendent of Education upon evidence of~~ immorality, a condition of health detrimental to the welfare of pupils, incompetency, unprofessional conduct (which includes the failure to disclose on an employment application any previous conviction for a sex offense, as defined in Section 21-23a of this Code, or any other offense committed in any other state or against the laws of the United States that, if committed in this State, would be punishable as a sex offense, as defined in Section 21-23a of this Code), the neglect of any professional duty, willful failure to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act, failure to establish satisfactory repayment on an educational loan guaranteed by the Illinois Student Assistance Commission, or other just cause. Unprofessional conduct shall include refusal to attend or participate in, institutes, teachers' meetings, professional readings, or to meet other reasonable requirements of the regional superintendent or State Superintendent of Education. Unprofessional conduct also includes conduct that violates the standards, ethics, or rules applicable to the security, administration, monitoring, or scoring of, or the reporting of scores from, any assessment test or the Prairie State Achievement Examination administered under Section 2-3.64 or that is known or intended to produce or report manipulated or artificial, rather than actual, assessment or achievement results or gains from the administration of those tests or examinations. It shall also include neglect or unnecessary delay in making of statistical and other reports required by school officers.

(a-5) The ~~regional superintendent or~~ State Superintendent of Education shall , upon receipt of evidence of abuse or neglect of a child, immorality, a condition of health detrimental to the welfare of pupils, incompetency, unprofessional conduct, the neglect of any professional duty or other just cause, further investigate and, if and as appropriate, serve written notice to the individual and afford the individual opportunity for a hearing prior to suspension or revocation. If the State Superintendent of Education does not receive from an individual a request for a hearing within 10 days after the individual receives notice, the suspension or revocation shall immediately take effect in accordance with the notice. If a hearing is requested within 10 days of notice of opportunity for hearing, it shall act as a stay of proceedings until the State Teacher Certification Board issues a decision. Any hearing shall take place in the educational service region wherein the educator is or was last employed and in accordance with rules

adopted by the State Board of Education, in consultation with the State Teacher Certification Board, which rules shall include without limitation provisions for discovery and the sharing of information between parties prior to the hearing. The decision of the State Teacher Certification Board is a final administrative decision and is subject to judicial review by appeal of either party. ~~not to exceed 30 days, unless the individual requests a delay. In such an instance, the stay of proceedings must be continued for another 30 days. No certificate shall be suspended until the teacher has an opportunity for a hearing at the educational service region. When a certificate is suspended, the right of appeal shall lie to the State Teacher Certification Board. When an appeal is taken within 10 days after notice of suspension it shall act as a stay of proceedings not to exceed 120 days. If a certificate is suspended for a period greater than one year, the State Superintendent of Education shall review the suspension prior to the expiration of that period to determine whether the cause for the suspension has been remedied or continues to exist. Upon determining that the cause for suspension has not abated, the State Superintendent of Education may order that the suspension be continued for an appropriate period. Nothing in this Section prohibits the continuance of such a suspension for an indefinite period if the State Superintendent determines that the cause for the suspension remains unabated. Any certificate may be revoked for the same reasons as for suspension by the State Superintendent of Education. No certificate shall be revoked until the teacher has an opportunity for a hearing before the State Teacher Certification Board, which hearing must be held within 120 days from the date the appeal is taken, unless the State Teacher Certification Board requests a delay. In such an instance, the stay of the revocation proceedings must be continued until the completion of the proceedings.~~

The State Board may refuse to issue or may suspend the certificate of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

The exclusive authority of the State Superintendent of Education to initiate suspension or revocation of a certificate pursuant to this Section does not preclude a regional superintendent of schools from cooperating with the State Superintendent or a State's Attorney with respect to an investigation of alleged misconduct.

(b) (Blank). ~~Any certificate issued pursuant to this Article may be suspended for an appropriate length of time as determined by either the regional superintendent or State Superintendent of Education upon evidence that the holder of the certificate has been named as a perpetrator in an indicated report filed pursuant to the Abused and Neglected Child Reporting Act, approved June 26, 1975, as amended, and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.~~

~~The regional superintendent or State Superintendent of Education shall, upon receipt of evidence that the certificate holder has been named a perpetrator in any indicated report, serve written notice to the individual and afford the individual opportunity for a hearing prior to suspension. If a hearing is requested within 10 days of notice of opportunity for hearing, it shall act as a stay of proceedings not to exceed 30 days, unless the individual requests a delay. In such an instance, the stay of proceedings must be continued for another 30 days. No certificate shall be suspended until the teacher has an opportunity for a hearing at the educational service region. When a certificate is suspended, the right of appeal shall lie to the State Teacher Certification Board. When an appeal is taken within 10 days after notice of suspension it shall act as a stay of proceedings not to exceed 120 days. The State Superintendent may revoke any certificate upon proof at hearing by clear and convincing evidence that the certificate holder has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act. No certificate shall be revoked until the teacher has an opportunity for a hearing before the State Teacher Certification Board, which hearing must be held within 120 days from the date the appeal is taken, unless the teacher or the hearing officer appointed by the State Teacher Certification Board requests a delay. In such an instance, the stay of the revocation proceedings must be continued until the completion of the proceedings.~~

(b-5) The State Superintendent of Education or his or her designee may initiate and conduct such investigations as may be reasonably necessary to establish the existence of any alleged misconduct. At any stage of the investigation, the State Superintendent may issue a subpoena requiring the attendance and testimony of a witness, including the certificate holder, and the production of any evidence, including files, records, correspondence, or documents, relating to any matter in question in the investigation. The subpoena shall require a witness to appear at the State Board of Education at a specified date and time and shall specify any evidence to be produced. The certificate holder is not entitled to be present, but the State Superintendent shall provide the certificate holder with a copy of any recorded testimony prior to a hearing under this Section. Such recorded testimony must not be used as

evidence at a hearing, unless the certificate holder has adequate notice of the testimony and the opportunity to cross-examine the witness. Failure of a certificate holder to comply with a duly-issued, investigatory subpoena is grounds for revocation, suspension, or denial of a certificate.

(b-10) All correspondence, documentation, and other information so received by the regional superintendent of schools, the State Superintendent of Education, the State Board of Education, or the State Teacher Certification Board under this Section is confidential and must not be disclosed to third parties, except (i) as necessary for the State Superintendent of Education or his or her designee to investigate and prosecute pursuant to this Article, (ii) pursuant to a court order, (iii) for disclosure to the certificate holder or his or her representative, or (iv) as otherwise required in this Code and provided that any such information admitted into evidence in a hearing shall be exempt from this confidentiality and non-disclosure requirement.

(c) The State Superintendent of Education or a person designated by him shall have the power to administer oaths to witnesses at any hearing conducted before the State Teacher Certification Board pursuant to this Section. The State Superintendent of Education or a person designated by him is authorized to subpoena and bring before the State Teacher Certification Board any person in this State and to take testimony either orally or by deposition or by exhibit, with the same fees and mileage and in the same manner as prescribed by law in judicial proceedings in the civil cases in circuit courts of this State.

(c-5) Any circuit court, upon the application of the State Superintendent of Education or the certificate holder, may, by order duly entered, require the attendance of witnesses and the production of relevant books and papers as part of any investigation or at any hearing the State Teacher Certification Board ~~State Superintendent of Education~~ is authorized to conduct pursuant to this Section, and the court may compel obedience to its orders by proceedings for contempt.

(c-10) The State Board of Education shall receive an annual line item appropriation to cover fees associated with the investigation and prosecution of alleged educator misconduct and hearings related thereto.

(d) As used in this Section, "teacher" means any school district employee regularly required to be certified, as provided in this Article, in order to teach or supervise in the public schools.

(Source: P.A. 93-679, eff. 6-30-04; 94-991, eff. 1-1-07.)

(105 ILCS 5/21-23a) (from Ch. 122, par. 21-23a)

Sec. 21-23a. Conviction of certain offenses ~~sex or narcotics offense, first degree murder, attempted first degree murder, or Class X felony~~ as grounds for revocation of certificate.

(a) Whenever the holder of any certificate issued pursuant to this Article has been convicted of any sex offense or narcotics offense as defined in this Section, the ~~regional superintendent or the~~ State Superintendent of Education shall forthwith suspend the certificate. If the conviction is reversed and the holder is acquitted of the offense in a new trial or the charges against him are dismissed, the suspending authority shall forthwith terminate the suspension of the certificate. When the conviction becomes final, the State Superintendent of Education shall forthwith revoke the certificate. "Sex offense" as used in this Section means any one or more of the following offenses: (1) any offense defined in Sections 11-6 and 11-9.1 through 11-9.5, inclusive, ~~11-9 and~~ Sections 11-14 through 11-21, inclusive, Sections 11-23 (if punished as a Class 3 felony) and 11-24, and Sections 12-4.9, 12-13, 12-14, 12-14.1, 12-15, ~~and~~ 12-16 , 12-32, and 12-33 of the Criminal Code of 1961; (2) any attempt to commit any of the foregoing offenses, and (3) any offense committed or attempted in any other state which, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses. "Narcotics offense" as used in this Section means any one or more of the following offenses: (1) any offense defined in the Cannabis Control Act, except those defined in Sections 4(a), 4(b) and 5(a) of that Act and any offense for which the holder of any certificate is placed on probation under the provisions of Section 10 of that Act, provided that if the terms and conditions of probation required by the court are not fulfilled, the offense is not eligible for this exception ~~and fulfills the terms and conditions of probation as may be required by the court~~; (2) any offense defined in the Illinois Controlled Substances Act , except any offense for which the holder of any certificate is placed on probation under the provisions of Section 410 of that Act, provided that if the terms and conditions of probation required by the court are not fulfilled, the offense is not eligible for this exception ~~and fulfills the terms and conditions of probation as may be required by the court~~; (3) any offense defined in the Methamphetamine Control and Community Protection Act , except any offense for which the holder of any certificate is placed on probation under the provision of Section 70 of that Act, provided that if the terms and conditions of probation required by the court are not fulfilled, the offense is not eligible for this exception ~~and fulfills the terms and conditions of probation as may be required by the court~~; (4) any attempt to commit any of the foregoing offenses; and (5) any offense committed or attempted in any other state or against the laws of the United

States which, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses. The changes made by this amendatory Act of the 95th General Assembly to the definition of "narcotics offense" in this subsection (a) are declaratory of existing law.

(b) Whenever the holder of a certificate issued pursuant to this Article has been convicted of first degree murder, attempted first degree murder, conspiracy to commit first degree murder, attempted conspiracy to commit first degree murder, or a Class X felony or any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses, ~~the regional superintendent or~~ the State Superintendent of Education shall forthwith suspend the certificate. If the conviction is reversed and the holder is acquitted of that offense in a new trial or the charges that he or she committed that offense are dismissed, the State Superintendent of Education ~~suspending authority~~ shall forthwith terminate the suspension of the certificate. When the conviction becomes final, the State Superintendent of Education shall forthwith revoke the certificate. ~~The stated offenses of "first degree murder", "attempted first degree murder", and "Class X felony" referred to in this Section include any offense committed in another state that, if committed in this State, would have been punishable as any one of the stated offenses.~~

(Source: P.A. 94-556, eff. 9-11-05.)

(105 ILCS 5/34-18.5) (from Ch. 122, par. 34-18.5)

Sec. 34-18.5. Criminal history records checks and checks of the Statewide Sex Offender Database and Statewide Child Murderer and Violent Offender Against Youth Database.

(a) Certified and noncertified applicants for employment with the school district are required as a condition of employment to authorize a fingerprint-based criminal history records check to determine if such applicants have been convicted of any of the enumerated criminal or drug offenses in subsection (c) of this Section or have been convicted, within 7 years of the application for employment with the school district, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State. Authorization for the check shall be furnished by the applicant to the school district, except that if the applicant is a substitute teacher seeking employment in more than one school district, or a teacher seeking concurrent part-time employment positions with more than one school district (as a reading specialist, special education teacher or otherwise), or an educational support personnel employee seeking employment positions with more than one district, any such district may require the applicant to furnish authorization for the check to the regional superintendent of the educational service region in which are located the school districts in which the applicant is seeking employment as a substitute or concurrent part-time teacher or concurrent educational support personnel employee. Upon receipt of this authorization, the school district or the appropriate regional superintendent, as the case may be, shall submit the applicant's name, sex, race, date of birth, social security number, fingerprint images, and other identifiers, as prescribed by the Department of State Police, to the Department. The regional superintendent submitting the requisite information to the Department of State Police shall promptly notify the school districts in which the applicant is seeking employment as a substitute or concurrent part-time teacher or concurrent educational support personnel employee that the check of the applicant has been requested. The Department of State Police and the Federal Bureau of Investigation shall furnish, pursuant to a fingerprint-based criminal history records check, records of convictions, until expunged, to the president of the school board for the school district that requested the check, or to the regional superintendent who requested the check. The Department shall charge the school district or the appropriate regional superintendent a fee for conducting such check, which fee shall be deposited in the State Police Services Fund and shall not exceed the cost of the inquiry; and the applicant shall not be charged a fee for such check by the school district or by the regional superintendent. Subject to appropriations for these purposes, the State Superintendent of Education shall reimburse the school district and regional superintendent for fees paid to obtain criminal history records checks under this Section.

(a-5) The school district or regional superintendent shall further perform a check of the Statewide Sex Offender Database, as authorized by the Sex Offender Community Notification Law, for each applicant.

(a-6) The school district or regional superintendent shall further perform a check of the Statewide Child Murderer and Violent Offender Against Youth Database, as authorized by the Child Murderer and Violent Offender Against Youth Community Notification Law, for each applicant.

(b) Any information concerning the record of convictions obtained by the president of the board of education or the regional superintendent shall be confidential and may only be transmitted to the general superintendent of the school district or his designee, the appropriate regional superintendent if the check was requested by the board of education for the school district, the presidents of the appropriate board of

education or school boards if the check was requested from the Department of State Police by the regional superintendent, the State Superintendent of Education, the State Teacher Certification Board or any other person necessary to the decision of hiring the applicant for employment. A copy of the record of convictions obtained from the Department of State Police shall be provided to the applicant for employment. Upon the check of the Statewide Sex Offender Database, the school district or regional superintendent shall notify an applicant as to whether or not the applicant has been identified in the Database as a sex offender. If a check of an applicant for employment as a substitute or concurrent part-time teacher or concurrent educational support personnel employee in more than one school district was requested by the regional superintendent, and the Department of State Police upon a check ascertains that the applicant has not been convicted of any of the enumerated criminal or drug offenses in subsection (c) or has not been convicted, within 7 years of the application for employment with the school district, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State and so notifies the regional superintendent and if the regional superintendent upon a check ascertains that the applicant has not been identified in the Sex Offender Database as a sex offender, then the regional superintendent shall issue to the applicant a certificate evidencing that as of the date specified by the Department of State Police the applicant has not been convicted of any of the enumerated criminal or drug offenses in subsection (c) or has not been convicted, within 7 years of the application for employment with the school district, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State and evidencing that as of the date that the regional superintendent conducted a check of the Statewide Sex Offender Database, the applicant has not been identified in the Database as a sex offender. The school board of any school district may rely on the certificate issued by any regional superintendent to that substitute teacher, concurrent part-time teacher, or concurrent educational support personnel employee or may initiate its own criminal history records check of the applicant through the Department of State Police and its own check of the Statewide Sex Offender Database as provided in subsection (a). Any person who releases any confidential information concerning any criminal convictions of an applicant for employment shall be guilty of a Class A misdemeanor, unless the release of such information is authorized by this Section.

(c) The board of education shall not knowingly employ a person who has been convicted of any offense that would subject him or her to certification suspension or revocation pursuant to Section 21-23a of this Code. ~~for committing attempted first degree murder or for committing or attempting to commit first degree murder or a Class X felony or any one or more of the following offenses: (i) those defined in Sections 11-6, 11-9, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15 and 12-16 of the Criminal Code of 1961; (ii) those defined in the Cannabis Control Act, except those defined in Sections 4(a), 4(b) and 5(a) of that Act; (iii) those defined in the Illinois Controlled Substances Act; (iv) those defined in the Methamphetamine Control and Community Protection Act; and (v) any offense committed or attempted in any other state or against the laws of the United States, which if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses.~~ Further, the board of education shall not knowingly employ a person who has been found to be the perpetrator of sexual or physical abuse of any minor under 18 years of age pursuant to proceedings under Article II of the Juvenile Court Act of 1987.

(d) The board of education shall not knowingly employ a person for whom a criminal history records check and a Statewide Sex Offender Database check has not been initiated.

(e) Upon receipt of the record of a conviction of or a finding of child abuse by a holder of any certificate issued pursuant to Article 21 or Section 34-8.1 or 34-83 of the School Code, the ~~board of education or the~~ State Superintendent of Education may ~~shall~~ initiate ~~the~~ certificate suspension and revocation proceedings as authorized by law.

(e-5) The general superintendent of schools shall, in writing, notify the State Superintendent of Education of any certificate holder whom he or she has reasonable cause to believe has committed an intentional act of abuse or neglect with the result of making a child an abused child or a neglected child, as defined in Section 3 of the Abused and Neglected Child Reporting Act, and that act resulted in the certificate holder's dismissal or resignation from the school district. This notification must be submitted within 30 days after the dismissal or resignation. The certificate holder must also be contemporaneously sent a copy of the notice by the superintendent. All correspondence, documentation, and other information so received by the State Superintendent of Education, the State Board of Education, or the State Teacher Certification Board under this subsection (e-5) is confidential and must not be disclosed to third parties, except (i) as necessary for the State Superintendent of Education or his or designee to

investigate and prosecute pursuant to Article 21 of this Code, (ii) pursuant to a court order, (iii) for disclosure to the certificate holder or his or her representative, or (iv) as otherwise provided in this Code and provided that any such information admitted into evidence in a hearing is exempt from this confidentiality and non-disclosure requirement. Any superintendent who in good faith provides notification as required in this subsection (e-5) shall have immunity from any liability, whether civil or criminal or that otherwise might result by reason of such action. For the purpose of any proceeding, civil or criminal, the good faith of a superintendent must be presumed.

(f) After March 19, 1990, the provisions of this Section shall apply to all employees of persons or firms holding contracts with any school district including, but not limited to, food service workers, school bus drivers and other transportation employees, who have direct, daily contact with the pupils of any school in such district. For purposes of criminal history records checks and checks of the Statewide Sex Offender Database on employees of persons or firms holding contracts with more than one school district and assigned to more than one school district, the regional superintendent of the educational service region in which the contracting school districts are located may, at the request of any such school district, be responsible for receiving the authorization for a criminal history records check prepared by each such employee and submitting the same to the Department of State Police and for conducting a check of the Statewide Sex Offender Database for each employee. Any information concerning the record of conviction and identification as a sex offender of any such employee obtained by the regional superintendent shall be promptly reported to the president of the appropriate school board or school boards.

(Source: P.A. 94-219, eff. 7-14-05; 94-556, eff. 9-11-05; 94-875, eff. 7-1-06; 94-945, eff. 6-27-06; 95-331, eff. 8-21-07.)".

Senator Haine offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2091

AMENDMENT NO. 2. Amend Senate Bill 2091, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, as follows:

on page 16, line 9, by replacing "district" with "board"; and

on page 17, line 5, by replacing "Code" with "Article"; and

on page 17, line 7, by replacing "Any" with "Except for an act of willful or wanton misconduct, any"; and

on page 17, line 8, by deleting "in good faith"; and

on page 17, by replacing lines 11 through 13 with the following:
"result by reason of such action."; and

on page 25, line 13, after "revocation", by inserting "; provided that the State Superintendent is under no obligation to initiate such an investigation if the Department of Children and Family Services is investigating the same or substantially similar allegations and its child protective service unit has not made its determination as required under Section 7.12 of the Abused and Neglected Child Reporting Act"; and

on page 25, line 26, after "hearing.", by inserting "The standard of proof for any administrative hearing held pursuant to this Section shall be by the preponderance of the evidence."; and

on page 29, line 20, by replacing "is" with "may be"; and

on page 30, line 5, by replacing "Code" with "Article"; and

on page 32, by replacing line 3 with the following:
"in Sections 11-6 and 11-9 through 11-9.5, inclusive, ~~and~~"; and

on page 41, line 7, by replacing "Code" with "Article"; and

on page 41, line 10, by replacing "Any" with "Except for an act of willful or wanton misconduct, any"; and

on page 41, line 10, by deleting "in good faith"; and

on page 41, by replacing lines 13 through 15 with the following:
"otherwise might result by reason of such action.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

INQUIRY OF THE CHAIR

Senator Cronin had an inquiry of the Chair to determine the status of a Motion in Writing he filed today with respect to House Joint Resolution Constitutional Amendment No. 28.

The Chair stated it would take his request under consideration.

READING BILL OF THE SENATE A SECOND TIME

On motion of Senator Cullerton, **Senate Bill No. 2099** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Revenue, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 2099

AMENDMENT NO. 1. Amend Senate Bill 2099, on page 1, line 5, by replacing "Section 14.5" with "Sections 14.5 and 14.10"; and

on page 1, immediately below line 16, by inserting the following:
"(20 ILCS 1605/14.10 new)
Sec. 14.10. Certain internet games prohibited. The Department may not offer any game over the internet or by other electronic means that has the outcome decided in a period of time less than 6 hours.".

Senate Floor Amendment No. 2 was postponed in the Committee on Revenue.

Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2099

AMENDMENT NO. 3. Amend Senate Bill 2099, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Lottery Law is amended by adding Sections 7.12, 7.15, and 7.16 as follows:
(20 ILCS 1605/7.12 new)
Sec. 7.12. Internet pilot program. The Department shall create a pilot program that allows an individual to purchase lottery tickets or shares on the Internet without using a Lottery retailer with on-line status, as those terms are defined by rule. The Department shall adopt rules necessary for the administration of this program. The provisions of this Act and the rules adopted under this Act shall apply to the sale of lottery tickets or shares under this program.

Before beginning the pilot program, the Department of Revenue must seek a clarifying memo from the federal Department of Justice that it is legal for Illinois residents and non-Illinois residents to purchase and the private company to sell lottery tickets on the Internet on behalf of the State of Illinois under the federal Unlawful Internet Gambling Enforcement Act of 2006.

The Department shall limit the individuals authorized to purchase lottery tickets on the Internet to individuals who are 18 years of age or older and Illinois residents, unless the clarifying memo from the federal Department of Justice indicates that it is legal for non-Illinois residents to purchase lottery tickets on the Internet, and shall set a limitation on the monthly purchases that may be made through any one

individual's lottery account. Only Lotto and Mega Million games offered by the Illinois Lottery may be offered through the pilot program.

The pilot program must be conducted pursuant to a contract with a private vendor that has the expertise, technical capability, and knowledge of the Illinois lottery marketplace to conduct the program. The Department of the Lottery must ensure cooperation from existing vendors for the program.

The pilot program shall last for not less than 36 months, but not more than 48 months.

Results from the pilot program in terms of sales and profits, as well as biannual reports as to market penetration and controls, shall be used in any calculation of the lottery's potential worth in the case of a lease or sale of the right to operate the lottery.

(20 ILCS 1605/7.15 new)

Sec. 7.15. Verification of age and residency for Internet program; security for Internet lottery accounts. The Department must establish a procedure to verify that an individual is 18 years of age or older and an Illinois resident before he or she may establish an Internet lottery account and purchase lottery tickets or shares through the Internet program. By rule, the Department shall establish funding procedures for Internet lottery accounts and shall provide a mechanism for each Internet lottery account to have a personal identification number to prevent the unauthorized use of Internet lottery accounts.

(20 ILCS 1605/7.16 new)

Sec. 7.16. Contracts. The contract with a private vendor to fulfill the program requirements must be separate from lottery contracts existing on the effective date of this Section.

The Department shall award contracts for the development and provision of technology and controls to ensure compliance with the age and residency requirements for the purchase of lottery tickets on the Internet pursuant to competitive bidding processes. The technology and controls must include appropriate data security standards to prevent unauthorized access to Internet lottery accounts.

Section 10. The Criminal Code of 1961 is amended by changing Section 28-1 as follows:

(720 ILCS 5/28-1) (from Ch. 38, par. 28-1)

Sec. 28-1. Gambling.

(a) A person commits gambling when he:

(1) Plays a game of chance or skill for money or other thing of value, unless excepted in subsection (b) of this Section; or

(2) Makes a wager upon the result of any game, contest, or any political nomination, appointment or election; or

(3) Operates, keeps, owns, uses, purchases, exhibits, rents, sells, bargains for the sale or lease of, manufactures or distributes any gambling device; or

(4) Contracts to have or give himself or another the option to buy or sell, or contracts to buy or sell, at a future time, any grain or other commodity whatsoever, or any stock or security of any company, where it is at the time of making such contract intended by both parties thereto that the contract to buy or sell, or the option, whenever exercised, or the contract resulting therefrom, shall be settled, not by the receipt or delivery of such property, but by the payment only of differences in prices thereof; however, the issuance, purchase, sale, exercise, endorsement or guarantee, by or through a person registered with the Secretary of State pursuant to Section 8 of the Illinois Securities Law of 1953, or by or through a person exempt from such registration under said Section 8, of a put, call, or other option to buy or sell securities which have been registered with the Secretary of State or which are exempt from such registration under Section 3 of the Illinois Securities Law of 1953 is not gambling within the meaning of this paragraph (4); or

(5) Knowingly owns or possesses any book, instrument or apparatus by means of which bets or wagers have been, or are, recorded or registered, or knowingly possesses any money which he has received in the course of a bet or wager; or

(6) Sells pools upon the result of any game or contest of skill or chance, political nomination, appointment or election; or

(7) Sets up or promotes any lottery or sells, offers to sell or transfers any ticket or share for any lottery; or

(8) Sets up or promotes any policy game or sells, offers to sell or knowingly possesses or transfers any policy ticket, slip, record, document or other similar device; or

(9) Knowingly drafts, prints or publishes any lottery ticket or share, or any policy ticket, slip, record, document or similar device, except for such activity related to lotteries, bingo games and raffles authorized by and conducted in accordance with the laws of Illinois or any other state or foreign government; or

(10) Knowingly advertises any lottery or policy game, except for such activity related

to lotteries, bingo games and raffles authorized by and conducted in accordance with the laws of Illinois or any other state; or

(11) Knowingly transmits information as to wagers, betting odds, or changes in betting odds by telephone, telegraph, radio, semaphore or similar means; or knowingly installs or maintains equipment for the transmission or receipt of such information; except that nothing in this subdivision (11) prohibits transmission or receipt of such information for use in news reporting of sporting events or contests; or

(12) Knowingly establishes, maintains, or operates an Internet site that permits a person to play a game of chance or skill for money or other thing of value by means of the Internet or to make a wager upon the result of any game, contest, political nomination, appointment, or election by means of the Internet. This item (12) does not apply to activities referenced in items (6) and (6.1) of subsection (b) of this Section.

(b) Participants in any of the following activities shall not be convicted of gambling therefor:

(1) Agreements to compensate for loss caused by the happening of chance including without limitation contracts of indemnity or guaranty and life or health or accident insurance. ;

(2) Offers of prizes, award or compensation to the actual contestants in any bona fide contest for the determination of skill, speed, strength or endurance or to the owners of animals or vehicles entered in such contest. ;

(3) Pari-mutuel betting as authorized by the law of this State. ;

(4) Manufacture of gambling devices, including the acquisition of essential parts therefor and the assembly thereof, for transportation in interstate or foreign commerce to any place outside this State when such transportation is not prohibited by any applicable Federal law. ;

(5) The game commonly known as "bingo", when conducted in accordance with the Bingo License and Tax Act. ;

(6) Lotteries when conducted by the State of Illinois in accordance with the Illinois Lottery Law. This exemption includes any activity conducted by the Department of Revenue to sell lottery tickets pursuant to the provisions of the Illinois Lottery Law and its rules. ;

(6.1) The purchase of lottery tickets through the Internet for a lottery conducted by the State of Illinois under the program established in Section 7.12 of the Illinois Lottery Law.

(7) Possession of an antique slot machine that is neither used nor intended to be used in the operation or promotion of any unlawful gambling activity or enterprise. For the purpose of this subparagraph (b)(7), an antique slot machine is one manufactured 25 years ago or earlier. ;

(8) Raffles when conducted in accordance with the Raffles Act. ;

(9) Charitable games when conducted in accordance with the Charitable Games Act. ;

(10) Pull tabs and jar games when conducted under the Illinois Pull Tabs and Jar Games Act. ; ~~or~~

(11) Gambling games conducted on riverboats when authorized by the Riverboat Gambling Act.

(c) Sentence.

Gambling under subsection (a)(1) or (a)(2) of this Section is a Class A misdemeanor. Gambling under any of subsections (a)(3) through (a)(11) of this Section is a Class A misdemeanor. A second or subsequent conviction under any of subsections (a)(3) through (a)(11), is a Class 4 felony. Gambling under subsection (a)(12) of this Section is a Class A misdemeanor. A second or subsequent conviction under subsection (a)(12) is a Class 4 felony.

(d) Circumstantial evidence.

In prosecutions under subsection (a)(1) through (a)(12) of this Section circumstantial evidence shall have the same validity and weight as in any criminal prosecution.

(Source: P.A. 91-257, eff. 1-1-00.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Senate Floor Amendment No. 4 was held in the Committee on Rules.

There being no further amendments, the foregoing Amendments Numbered 1 and 3 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

INQUIRY OF THE CHAIR

Senator Righter had an inquiry of the Chair as to whether or not Senator Cronin's motion would be placed on the Senate Calendar for tomorrow.

The Chair stated that it would take the matter under advisement.

Senator Cronin had a further inquiry as to whether or not there would be a vote taken on the recall amendment.

The Chair stated that it was not on that order of business and the Chair would take the matter under advisement.

READING BILLS OF THE SENATE A SECOND TIME

On motion of Senator Syverson, **Senate Bill No. 2138** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Judiciary Civil Law, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 2138

AMENDMENT NO. 1. Amend Senate Bill 2138 by replacing everything after the enacting clause with the following:

"Section 5. The Code of Civil Procedure is amended by changing Section 12-183 as follows:

(735 ILCS 5/12-183) (from Ch. 110, par. 12-183)

Sec. 12-183. Release of judgment.

(a) Every judgment creditor, his or her assignee of record or other legal representative having received full satisfaction or payment of all such sums of money as are really due to him or her from the judgment debtor on any judgment rendered in a court shall, at the request of the judgment debtor or his or her legal representative, execute and deliver to the judgment debtor or his or her legal representative an instrument in writing releasing such judgment. A release or satisfaction of judgment shall include the following clear and conspicuous language:

This release should be filed in the Office of the Clerk of the Circuit Court in order to clear court records. The Clerk of the Circuit Court shall not assess any fee or charge for the filing of a release or satisfaction of judgment.

If the judgment has been recorded in the Office of the County Recorder of Deeds, a copy of this release should also be recorded. The County Recorder of Deeds may assess a fee for recording a release or satisfaction of judgment.

FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL BE FILED WITH THE RECORDER IN WHOSE OFFICE THE LIEN WAS FILED. It is the responsibility of the defendant to record the release.

(b) If the judgment creditor, his or her assigns of record or other legal representative to whom tender has been made of all sums of money due him or her from the judgment debtor including interest, on any judgment entered by a court, wilfully fails or refuses, at the request of the judgment debtor or his or her legal representative to execute and deliver to the judgment debtor or his or her legal representative an instrument in writing releasing such judgment, the judgment debtor may petition the court in which such judgment is of record, making tender therewith to the court of all sums due in principal and interest on such judgment, for the use of the judgment creditor, his or her executors, administrators or assigns, whereupon the court shall enter an order satisfying the judgment and releasing all liens based on such judgment.

(c) For the recording of assignment of any judgment the clerk of the court in which such judgment is of record is allowed a fee of $2.

(d) A satisfaction of a judgment may be delivered to the judgment debtor, his or her attorney or to the clerk of the court in which such judgment is of record.

(e) The clerk shall not be allowed any fee for recording the satisfaction of judgment. The clerk of the court shall make appropriate notation on the judgment docket of the book and page where any release or assignment of any judgment is recorded.

(f) No judgment shall be released of record except by an instrument in writing recorded in the court in which such judgment is of record. However, nothing contained in this Section affects in any manner the validity of any release of judgment made, prior to January 1, 1952, in judgment and execution dockets by the judgment creditor, his or her attorney, assignee or other legal representative.

(g) The writ of audita querela is abolished and all relief heretofore obtainable and grounds for such relief heretofore available, whether by the writ of audita querela or otherwise, shall be available in every case by petition hereunder, regardless of the nature of the order or judgment from which relief is sought or of the proceeding in which it was entered. There shall be no distinction between actions and other proceedings, statutory or otherwise, as to availability of relief, grounds for relief or relief obtainable. The petition shall be filed in the same proceeding in which the order or judgment was entered and shall be supported by affidavit or other appropriate showing as to matters not of record. All parties to the petition shall be notified as provided by rule.

(h) (Blank) ~~Upon the filing of a release or satisfaction in full satisfaction of judgment, signed by the party in whose favor the judgment was entered or his or her attorney, the court shall vacate the judgment, and dismiss the action~~.

(i) Any judgment arising out of an order for support shall not be a judgment to the extent of payments made as evidenced by the records of the Clerk of the Circuit Court or State agency receiving payments pursuant to the order. In the event payments made pursuant to that order are not paid to the Clerk of the Circuit Court or a State agency, then any judgment arising out of each order for support may be released in the following manner:

(1) A Notice of Filing and an affidavit stating that all installments of child support required to be paid pursuant to the order under which the judgment or judgments were entered have been paid shall be filed with the office of the court or agency entering said order for support, together with proof of service of such notice and affidavit upon the recipient of such payments.

(2) Service of such affidavit shall be by any means authorized under Sections 2-203 and 2-208 of the Code of Civil Procedure or under Supreme Court Rules 11 or 105(b).

(3) The Notice of Filing shall set forth the name and address of the judgment debtor and the judgment creditor, the court file number of the order giving rise to the judgment and, in capital letters, the following statement:

YOU ARE HEREBY NOTIFIED THAT ON (insert date) THE ATTACHED AFFIDAVIT WAS FILED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF .... COUNTY, ILLINOIS, WHOSE ADDRESS IS ....., ILLINOIS. IF, WITHIN 28 DAYS OF THE DATE OF THIS NOTICE, YOU FAIL TO FILE AN AFFIDAVIT OBJECTING TO THE SATISFACTION OF THE STATED JUDGMENT OR JUDGMENTS IN THE ABOVE OFFICE, THE SAID JUDGMENTS WILL BE DEEMED TO BE SATISFIED AND NOT ENFORCEABLE. THE SATISFACTION WILL NOT PREVENT YOU FROM ENFORCING THE ORDER FOR SUPPORT THROUGH THE COURT.

(4) If no affidavit objecting to the satisfaction of the judgment or judgments is filed within 28 days of the Notice described in paragraph (3) of this subsection (i), such judgment or judgments shall be deemed to be satisfied and not enforceable.

(Source: P.A. 91-357, eff. 7-29-99.)

Section 99. Effective date. This Act takes effect January 1, 2009.".

Senator Syverson offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2138

AMENDMENT NO. 2. Amend Senate Bill 2138, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 2, by deleting lines 11 and 12.

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Murphy, **Senate Bill No. 2142,** having been printed, was taken up, read by title a second time.

Senate Floor Amendment No. 1 was held in the Committee on Rules.

There being no further amendments, the bill was ordered to a third reading.

On motion of Senator Trotter, **Senate Bill No. 2155** having been printed, was taken up, read by title a second time.

Senator Trotter offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2155

AMENDMENT NO. 1. Amend Senate Bill 2155 on page 1, line 9, after "Director", by inserting "of the Division of Alcoholism and Substance Abuse"; and

on page 5, after line 8, by inserting the following:

"(d) Health care professional prescription of drug overdose treatment medication.

(1) A health care professional, when prescribing an opioid antidote, shall provide to the patient information on the following: drug overdose prevention and recognition; how to perform rescue breathing and resuscitation; opioid antidote dosage and administration; the importance of calling 911; care for the overdose victim after administration of the overdose antidote; and other issues as necessary. The health care professional shall document the provision of information in the patient's medical record. The Director of the Division of Alcoholism and Substance Abuse, in consultation with statewide organizations representing physicians, advanced practice nurses, physician assistants, substance abuse programs, and other interested groups, shall develop and disseminate to health care professionals, community-based organizations, substance abuse programs, and other organizations training materials to facilitate the provision of such patient information.

(2) A health care professional who, acting in good faith, prescribes or dispenses an opioid antidote to a patient who has received the information specified in paragraph (1) of this subsection and who, in the judgment of the health care professional, is capable of administering the drug in an emergency, shall not, as a result of his or her acts or omissions, be subject to disciplinary or other adverse action under the Medical Practice Act of 1987, the Physician Assistant Practice Act of 1987, the Nurse Practice Act, the Pharmacy Practice Act, or any other professional licensing statute.

(3) A person who is not otherwise licensed to administer an opioid antidote may in an emergency administer without fee an opioid antidote if the person has received the patient information specified in paragraph (1) of this subsection and believes in good faith that another person is experiencing a drug overdose. The person shall not, as a result of his or her acts or omissions, be liable for any violation of the Medical Practice Act, the Physician Assistant Practice Act of 1987, the Nurse Practice Act, the Pharmacy Practice Act, or any other professional licensing statute, or subject to any criminal prosecution arising from or related to the unauthorized practice of medicine or the possession of an opioid antidote.

(4) For the purposes of this subsection:

"Opioid antidote" means naloxone hydrochloride or any other similarly acting and equally safe drug approved by the U.S. Food and Drug Administration for the treatment of drug overdose.

"Health care professional" means a physician licensed to practice medicine in all its branches, a physician assistant who has been delegated the provision of health services by his or her supervising physician to prescribe or dispense an opioid antidote, or an advanced practice registered nurse who has a written collaborative agreement with a collaborating physician that authorizes the prescribing or dispensing of an opioid antidote."; and

by deleting lines 9 through 24 on page 5 and lines 1 through 25 on page 6.

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Haine, **Senate Bill No. 2163** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Environment and Energy, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 2163

AMENDMENT NO. 1. Amend Senate Bill 2163 by replacing everything after the enacting clause with the following:

"Section 5. The Emergency Telephone System Act is amended by adding Section 15.7 as follows:
(50 ILCS 750/15.7 new)
Sec. 15.7. Compliance with certification of 9-1-1 system providers by the Illinois Commerce Commission. In addition to the requirements of this Section, all 9-1-1 system providers must comply with the requirements of Section 13-900 of the Public Utilities Act.

Section 10. The Public Utilities Act is amended by adding Section 13-900 as follows:
(220 ILCS 5/13-900 new)
(Section scheduled to be repealed on July 1, 2009)
Sec. 13-900. Authority to serve as 9-1-1 system provider; rules.
(a) The General Assembly finds that it is necessary to require the certification of 9-1-1 system providers to ensure the safety of the lives and property of Illinoisans and Illinois businesses, and to otherwise protect and promote the public safety, health, and welfare of the citizens of this State and their property.
(b) For purposes of this Section:
"9-1-1 system" has the same meaning as that term is defined in Section 2.19 of the Emergency Telephone System Act.
"9-1-1 system provider" means any person, corporation, limited liability company, partnership, sole proprietorship, or entity of any description whatever that acts as a system provider within the meaning of Section 2.18 of the Emergency Telephone System Act.
"Emergency Telephone System Board" has the same meaning as that term is defined in Sections 2.11 and 15.4 of the Emergency Telephone System Act.
"Public safety agency personnel" means personnel employed by a public safety agency, as that term is defined in Section 2.02 of the Emergency Telephone System Act, whose responsibilities include responding to requests for emergency services.
(c) Except as otherwise provided in this Section, beginning July 1, 2009, it is unlawful for any 9-1-1 system provider to offer or provide or seek to offer or provide to any emergency telephone system board or 9-1-1 system, or agent, representative, or designee thereof, any network or database service used or intended to be used by any emergency telephone system board or 9-1-1 system for the purpose of answering, transferring, or relaying requests for emergency services, or dispatching public safety agency personnel in response to requests for emergency services, unless the 9-1-1 system provider has applied for and received a Certificate of 9-1-1 System Provider Authority from the Commission. The Commission shall approve an application for a Certificate of 9-1-1 System Provider Authority upon a showing by the applicant, and a finding by the Commission, after notice and hearing, that the applicant possesses sufficient technical, financial, and managerial resources and abilities to provide network service and database services that it seeks authority to provide in its application for service authority, in a safe, continuous, and uninterrupted manner.
(d) No incumbent local exchange carrier that provides, as of the effective date of this amendatory Act of the 95th General Assembly, any 9-1-1 network or 9-1-1 database service used or intended to be used by any Emergency Telephone System Board or 9-1-1 system, shall be required to obtain a Certificate of 9-1-1 System Provider Authority under this Section. No entity that possesses, as of the effective date of this amendatory Act of the 95th General Assembly, a Certificate of Service Authority and provides 9-1-1 network or 9-1-1 database services to any incumbent local exchange carrier as of the effective date of this amendatory Act of the 95th General Assembly shall be required to obtain a Certificate of 9-1-1 System Provider Authority under this Section.
(e) Any and all enforcement authority granted to the Commission under this Section over any Certificate of Service Authority shall apply equally and without limitation to a Certificate of 9-1-1 System Provider Authority; provided, however, that the enforcement authority granted to the Commission under this Section shall apply exclusively to 9-1-1 system providers, and to incumbent local exchange carriers only to the extent the local exchange carriers act as 9-1-1 system providers.

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

Senate Floor Amendment No. 2 was held in the Committee on Rules.
Senator Haine offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2163

AMENDMENT NO. _3_. Amend Senate Bill 2163, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Emergency Telephone System Act is amended by adding Section 15.7 as follows:
(50 ILCS 750/15.7 new)
Sec. 15.7. Compliance with certification of 9-1-1 system providers by the Illinois Commerce Commission. In addition to the requirements of this Section, all 9-1-1 system providers must comply with the requirements of Section 13-900 of the Public Utilities Act.

Section 10. The Public Utilities Act is amended by adding Section 13-900 as follows:
(220 ILCS 5/13-900 new)
(Section scheduled to be repealed on July 1, 2009)
Sec. 13-900. Authority to serve as 9-1-1 system provider; rules.
(a) The General Assembly finds that it is necessary to require the certification of 9-1-1 system providers to ensure the safety of the lives and property of Illinoisans and Illinois businesses, and to otherwise protect and promote the public safety, health, and welfare of the citizens of this State and their property.
(b) For purposes of this Section:
"9-1-1 system" has the same meaning as that term is defined in Section 2.19 of the Emergency Telephone System Act.
"9-1-1 system provider" means any person, corporation, limited liability company, partnership, sole proprietorship, or entity of any description whatever that acts as a system provider within the meaning of Section 2.18 of the Emergency Telephone System Act.
"Emergency Telephone System Board" has the same meaning as that term is defined in Sections 2.11 and 15.4 of the Emergency Telephone System Act.
"Public safety agency personnel" means personnel employed by a public safety agency, as that term is defined in Section 2.02 of the Emergency Telephone System Act, whose responsibilities include responding to requests for emergency services.
(c) Except as otherwise provided in this Section, beginning July 1, 2009, it is unlawful for any 9-1-1 system provider to offer or provide or seek to offer or provide to any emergency telephone system board or 9-1-1 system, or agent, representative, or designee thereof, any network and database service used or intended to be used by any emergency telephone system board or 9-1-1 system for the purpose of answering, transferring, or relaying requests for emergency services, or dispatching public safety agency personnel in response to requests for emergency services, unless the 9-1-1 system provider has applied for and received a Certificate of 9-1-1 System Provider Authority from the Commission. The Commission shall approve an application for a Certificate of 9-1-1 System Provider Authority upon a showing by the applicant, and a finding by the Commission, after notice and hearing, that the applicant possesses sufficient technical, financial, and managerial resources and abilities to provide network service and database services that it seeks authority to provide in its application for service authority, in a safe, continuous, and uninterrupted manner.
(d) No incumbent local exchange carrier that provides, as of the effective date of this amendatory Act of the 95th General Assembly, any 9-1-1 network and 9-1-1 database service used or intended to be used by any Emergency Telephone System Board or 9-1-1 system, shall be required to obtain a Certificate of 9-1-1 System Provider Authority under this Section. No entity that possesses, as of the effective date of this amendatory Act of the 95th General Assembly, a Certificate of Service Authority and provides 9-1-1 network and 9-1-1 database services to any incumbent local exchange carrier as of the effective date of this amendatory Act of the 95th General Assembly shall be required to obtain a Certificate of 9-1-1 System Provider Authority under this Section.
(e) Any and all enforcement authority granted to the Commission under this Section shall apply exclusively to 9-1-1 system providers granted a Certificate of Service Authority under this Section and shall not apply to incumbent local exchange carriers that are providing 9-1-1 service as of the effective date of this amendatory Act of the 95th General Assembly.

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

The motion prevailed.
And the amendment was adopted and ordered printed.
There being no further amendments, the foregoing Amendments Numbered 1 and 3 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Millner, **Senate Bill No. 2166,** having been printed, was taken up, read by title a second time.

Senate Floor Amendment No. 1 was held in the Committee on Environment and Energy.

There being no further amendments, the bill was ordered to a third reading.

On motion of Senator Murphy, **Senate Bill No. 2170** having been printed, was taken up, read by title a second time.

Senator Murphy offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2170

AMENDMENT NO. 1. Amend Senate Bill 2170 on page 4, line 7, after "judgment", by inserting "and acting within the parameters of the policies adopted by the board".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Delgado, **Senate Bill No. 2173** having been printed, was taken up, read by title a second time.

The following amendments were offered in the Committee on Public Health, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 2173

AMENDMENT NO. 1. Amend Senate Bill 2173 by replacing everything after the enacting clause with the following:

"Section 5. The Children's Health Insurance Program Act is amended by adding Section 65 as follows:

(215 ILCS 106/65 new)

Sec. 65. Fee schedule. Beginning on January, 1, 2009, reimbursement for any physician service must not be lower than Medicare reimbursement in accordance with the Medicare payment localities for Illinois. The physician fee schedule must be adjusted every January 1 corresponding to any adjustment in the Medicare physician fee schedule. Reimbursement rules and policies shall not be more restrictive than Medicare physician payment rules and policies. Payment for services must be made within 30 days after receipt of a bill or claim for payment in accordance with Section 368a of the Illinois Insurance Code.

Section 10. The Covering ALL KIDS Health Insurance Act is amended by adding Section 52.5 as follows:

(215 ILCS 170/52.5 new)

Sec. 52.5. Fee schedule. Beginning on January, 1, 2009, the physician fee schedule for the Covering ALL KIDS Insurance Program for any physician service must not be lower than Medicare reimbursement in accordance with the Medicare payment localities for Illinois. The physician fee schedule must be adjusted every January 1 corresponding to any adjustment in the Medicare physician fee schedule. Reimbursement rules and policies shall not be more restrictive than Medicare physician payment rules and policies. Payment for services must be made within 30 days after receipt of a bill or claim for payment in accordance with Section 368a of the Illinois Insurance Code.

Section 15. The Illinois Public Aid Code is amended by adding Section 5-5.05 as follows:

(305 ILCS 5/5-5.05 new)

Sec. 5-5.05. Fee schedule. Notwithstanding any other provision of this Article, beginning on January, 1, 2009, reimbursement for any physician service must not be lower than Medicare reimbursement in accordance with the Medicare payment localities for Illinois. The physician fee schedule must be adjusted every January 1 corresponding to any adjustment in the Medicare physician fee schedule. Reimbursement rules and policies shall not be more restrictive than Medicare physician payment rules and policies. Payment for services must be made within 30 days after receipt of a bill or claim or payment in accordance with Section 368a of the Illinois Insurance Code.

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

Senator Delgado offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2173

AMENDMENT NO. 2. Amend Senate Bill 2173, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Children's Health Insurance Program Act is amended by adding Section 65 as follows:
(215 ILCS 106/65 new)
Sec. 65. Fee schedule. Beginning on January, 1, 2009, reimbursement for any physician service must not be lower than 60% of Medicare reimbursement in accordance with the Medicare payment localities for Illinois. The physician fee schedule rates must be adjusted to no lower than 80% of Medicare reimbursement by January 1, 2010, and no lower than 100% of Medicare reimbursement by January 1, 2011. All adjustments shall be made without lowering any existing rates that may be higher than the level required by this Section. Reimbursement rules and policies shall not be more restrictive than Medicare physician payment rules and policies by January 1, 2010. Payment for services must be made within 30 days after receipt of a bill or claim for payment in accordance with Section 368a of the Illinois Insurance Code.

Section 10. The Covering ALL KIDS Health Insurance Act is amended by adding Section 52.5 as follows:
(215 ILCS 170/52.5 new)
Sec. 52.5. Fee schedule. Beginning on January, 1, 2009, the physician fee schedule for the Covering ALL KIDS Insurance Program for any physician service must not be lower than 60% of Medicare reimbursement in accordance with the Medicare payment localities for Illinois. The physician fee schedule rates must be adjusted to no lower than 80% of Medicare reimbursement by January 1, 2010, and no lower than 100% of Medicare reimbursement by January 1, 2011. All adjustments shall be made without lowering any existing rates that may be higher than the level required by this Section. Reimbursement rules and policies shall not be more restrictive than Medicare physician payment rules and policies by January 1, 2010. Payment for services must be made within 30 days after receipt of a bill or claim for payment in accordance with Section 368a of the Illinois Insurance Code.

Section 15. The Illinois Public Aid Code is amended by adding Section 5-5.05 as follows:
(305 ILCS 5/5-5.05 new)
Sec. 5-5.05. Fee schedule. Notwithstanding any other provision of this Article, beginning on January, 1, 2009, reimbursement for any physician service must not be lower than 60% of Medicare reimbursement in accordance with the Medicare payment localities for Illinois. The physician fee schedule rates must be adjusted to no lower than 80% of Medicare reimbursement by January 1, 2010, and no lower than 100% of Medicare reimbursement by January 1, 2011. All adjustments shall be made without lowering any existing rates that may be higher than the level required by this Section. Reimbursement rules and policies shall not be more restrictive than Medicare physician payment rules and policies by January 1, 2010. Payment for services must be made within 30 days after receipt of a bill or claim or payment in accordance with Section 368a of the Illinois Insurance Code.

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

The motion prevailed.
And the amendment was adopted and ordered printed.
There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

At the hour of 5:15 o'clock p.m., Senator DeLeo presiding.

On motion of Senator Clayborne, **Senate Bill No. 2181** having been printed, was taken up, read by title a second time.
Senate Floor Amendment No. 1 was held in the Committee on Local Government.
Senate Floor Amendment No. 2 was held in the Committee on Rules.
Senator Clayborne offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2181

AMENDMENT NO. 3. Amend Senate Bill 2181 by replacing everything after the enacting clause with the following:

"Section 5. The Counties Code is amended by changing Section 5-1101 as follows:

(55 ILCS 5/5-1101) (from Ch. 34, par. 5-1101)

Sec. 5-1101. Additional fees to finance court system. A county board may enact by ordinance or resolution the following fees:

(a) A $5 fee to be paid by the defendant on a judgment of guilty or a grant of supervision for violation of the Illinois Vehicle Code other than Section 11-501 or violations of similar provisions contained in county or municipal ordinances committed in the county, and up to a $30 fee to be paid by the defendant on a judgment of guilty or a grant of supervision for violation of Section 11-501 of the Illinois Vehicle Code or a violation of a similar provision contained in county or municipal ordinances committed in the county.

(b) In the case of a county having a population of 1,000,000 or less, a $5 fee to be collected in all civil cases by the clerk of the circuit court.

(c) A fee to be paid by the defendant on a judgment of guilty or a grant of supervision under Section 5-9-1 of the Unified Code of Corrections, as follows:

(1) for a felony, $50;

(2) for a class A misdemeanor, $25;

(3) for a class B or class C misdemeanor, $15;

(4) for a petty offense, $10;

(5) for a business offense, $10.

(d) A $100 fee for the second and subsequent violations of Section 11-501 of the Illinois Vehicle Code or violations of similar provisions contained in county or municipal ordinances committed in the county. The proceeds of this fee shall be placed in the county general fund and used to finance education programs related to driving under the influence of alcohol or drugs.

(d-5) A $10 fee to be paid by the defendant on a judgment of guilty or a grant of supervision under Section 5-9-1 of the Unified Code of Corrections to be placed in the county general fund and used to finance the county mental health court, the county drug court, or both.

(d-6) A $25 fee to be paid by the defendant on a judgment of guilty or a grant of supervision under Section 5-9-1 of the Unified Code of Corrections to be placed in the county general fund and used to finance county probation services.

(e) In each county in which a teen court, peer court, peer jury, youth court, or other youth diversion program has been created, a county may adopt a mandatory fee of up to $5 to be assessed as provided in this subsection. Assessments collected by the clerk of the circuit court pursuant to this subsection must be deposited into an account specifically for the operation and administration of a teen court, peer court, peer jury, youth court, or other youth diversion program. The clerk of the circuit court shall collect the fees established in this subsection and must remit the fees to the teen court, peer court, peer jury, youth court, or other youth diversion program monthly, less 5%, which is to be retained as fee income to the office of the clerk of the circuit court. The fees are to be paid as follows:

(1) a fee of up to $5 paid by the defendant on a judgment of guilty or grant of supervision for violation of the Illinois Vehicle Code or violations of similar provisions contained in county or municipal ordinances committed in the county;

(2) a fee of up to $5 paid by the defendant on a judgment of guilty or grant of supervision under Section 5-9-1 of the Unified Code of Corrections for a felony; for a Class A, Class B, or Class C misdemeanor; for a petty offense; and for a business offense.

(f) In each county in which a drug court has been created, the county may adopt a mandatory fee of up to $5 to be assessed as provided in this subsection. Assessments collected by the clerk of the circuit court pursuant to this subsection must be deposited into an account specifically for the operation and administration of the drug court. The clerk of the circuit court shall collect the fees established in this subsection and must remit the fees to the drug court, less 5%, which is to be retained as fee income to the office of the clerk of the circuit court. The fees are to be paid as follows:

(1) a fee of up to $5 paid by the defendant on a judgment of guilty or grant of supervision for a violation of the Illinois Vehicle Code or a violation of a similar provision contained in a county or municipal ordinance committed in the county; or

(2) a fee of up to $5 paid by the defendant on a judgment of guilty or a grant of supervision under Section 5-9-1 of the Unified Code of Corrections for a felony; for a Class A, Class B, or Class C misdemeanor; for a petty offense; and for a business offense.

The clerk of the circuit court shall deposit the 5% retained under this subsection into the Circuit Court Clerk Operation and Administrative Fund to be used to defray the costs of collection and disbursement of the drug court fee.

(f-5) In each county in which a Children's Advocacy Center provides services, the county board may adopt a mandatory fee of between $5 and $30 to be paid by the defendant on a judgment of guilty or a grant of supervision under Section 5-9-1 of the Unified Code of Corrections for a felony; for a Class A, Class B, or Class C misdemeanor; for a petty offense; and for a business offense. Assessments shall be collected by the clerk of the circuit court and must be deposited into an account specifically for the operation and administration of the Children's Advocacy Center. The clerk of the circuit court shall collect the fees as provided in this subsection, and must remit the fees to the Children's Advocacy Center.

(g) The proceeds of all fees enacted under this Section must, except as provided in subsections (d), (d-5), (e), and (f), be placed in the county general fund and used to finance the court system in the county, unless the fee is subject to disbursement by the circuit clerk as provided under Section 27.5 of the Clerks of Courts Act.

(Source: P.A. 94-862, eff. 6-16-06; 94-980, eff. 6-30-06; 95-103, eff. 1-1-08; 95-331, eff. 8-21-07.)

Section 10. The Clerks of Court Act is amended by changing Sections 27.5 and 27.6 as follows:

(705 ILCS 105/27.5) (from Ch. 25, par. 27.5)

Sec. 27.5. (a) All fees, fines, costs, additional penalties, bail balances assessed or forfeited, and any other amount paid by a person to the circuit clerk that equals an amount less than $55, except restitution under Section 5-5-6 of the Unified Code of Corrections, the additional fee collected pursuant to subsection (d-6) of Section 5-1101 of the Counties Code and thereafter, any fees collected for reimbursement for the costs of an emergency response as provided under Section 11-501 of the Illinois Vehicle Code, any fees collected for attending a traffic safety program under paragraph (c) of Supreme Court Rule 529, any fee collected on behalf of a State's Attorney under Section 4-2002 of the Counties Code or a sheriff under Section 4-5001 of the Counties Code, or any cost imposed under Section 124A-5 of the Code of Criminal Procedure of 1963, for convictions, orders of supervision, or any other disposition for a violation of Chapters 3, 4, 6, 11, and 12 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a similar provision of a local ordinance, and except as provided in subsection (b) shall be disbursed within 60 days after receipt by the circuit clerk as follows: 47% shall be disbursed to the entity authorized by law to receive the fine imposed in the case; 12% shall be disbursed to the State Treasurer; and 41% shall be disbursed to the county's general corporate fund. Of the 12% disbursed to the State Treasurer, 1/6 shall be deposited by the State Treasurer into the Violent Crime Victims Assistance Fund, 1/2 shall be deposited into the Traffic and Criminal Conviction Surcharge Fund, and 1/3 shall be deposited into the Drivers Education Fund. For fiscal years 1992 and 1993, amounts deposited into the Violent Crime Victims Assistance Fund, the Traffic and Criminal Conviction Surcharge Fund, or the Drivers Education Fund shall not exceed 110% of the amounts deposited into those funds in fiscal year 1991. Any amount that exceeds the 110% limit shall be distributed as follows: 50% shall be disbursed to the county's general corporate fund and 50% shall be disbursed to the entity authorized by law to receive the fine imposed in the case. Not later than March 1 of each year the circuit clerk shall submit a report of the amount of funds remitted to the State Treasurer under this Section during the preceding year based upon independent verification of fines and fees. All counties shall be subject to this Section, except that counties with a population under 2,000,000 may, by ordinance, elect not to be subject to this Section. For offenses subject to this Section, judges shall impose one total sum of money payable for violations. The circuit clerk may add on no additional amounts except for amounts that are required by Sections 27.3a and 27.3c of this Act and subsection (d-6) of Section 5-1101 of the Counties Code, unless those amounts are specifically waived by the judge. With respect to money collected by the circuit clerk as a result of forfeiture of bail, ex parte judgment or guilty plea pursuant to Supreme Court Rule 529, the circuit clerk shall first deduct and pay amounts required by Sections 27.3a and 27.3c of this Act. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(b) The following amounts must be remitted to the State Treasurer for deposit into the Illinois Animal Abuse Fund:

(1) 50% of the amounts collected for felony offenses under Sections 3, 3.01, 3.02, 3.03, 4, 4.01, 4.03, 4.04, 5, 5.01, 6, 7, 7.5, 7.15, and 16 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961;

(2) 20% of the amounts collected for Class A and Class B misdemeanors under Sections 3,

3.01, 4, 4.01, 4.03, 4.04, 5, 5.01, 6, 7, 7.1, 7.5, 7.15, and 16 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961; and

(3) 50% of the amounts collected for Class C misdemeanors under Sections 4.01 and 7.1 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961.

(c) Any person who receives a disposition of court supervision for a violation of the Illinois Vehicle Code or a similar provision of a local ordinance shall, in addition to any other fines, fees, and court costs, pay an additional fee of $20, to be disbursed as provided in Section 16-104c of the Illinois Vehicle Code. In addition to the fee of $20, the person shall also pay a fee of $5, if not waived by the court. If this $5 fee is collected, $4.50 of the fee shall be deposited into the Circuit Court Clerk Operation and Administrative Fund created by the Clerk of the Circuit Court and 50 cents of the fee shall be deposited into the Prisoner Review Board Vehicle and Equipment Fund in the State treasury.

(d) Any person convicted of or pleading guilty to a serious traffic violation, as defined in Section 1-187.001 of the Illinois Vehicle Code, shall pay an additional fee of $20, to be disbursed as provided in Section 16-104d of that Code.

This subsection (d) becomes inoperative 7 years after the effective date of Public Act 95-154 ~~this amendatory Act of the 95th General Assembly~~.

(Source: P.A. 94-1009, eff. 1-1-07; 95-154, eff. 10-13-07; 95-428, eff. 8-24-07; revised 11-19-07.)

(705 ILCS 105/27.6)

(Text of Section before amendment by P.A. 95-600)

Sec. 27.6. (a) All fees, fines, costs, additional penalties, bail balances assessed or forfeited, and any other amount paid by a person to the circuit clerk equalling an amount of $55 or more, except the additional fee required by subsections (b) and (c), restitution under Section 5-5-6 of the Unified Code of Corrections, the additional fee collected pursuant to subsection (d-6) of Sections 5-1101 of the Counties Code and thereafter, any fees collected for reimbursement for the costs of an emergency response as provided under Section 11-501 of the Illinois Vehicle Code, any fees collected for attending a traffic safety program under paragraph (c) of Supreme Court Rule 529, any fee collected on behalf of a State's Attorney under Section 4-2002 of the Counties Code or a sheriff under Section 4-5001 of the Counties Code, or any cost imposed under Section 124A-5 of the Code of Criminal Procedure of 1963, for convictions, orders of supervision, or any other disposition for a violation of Chapters 3, 4, 6, 11, and 12 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a similar provision of a local ordinance, and except as provided in subsections (d) and (g) ~~(f)~~ shall be disbursed within 60 days after receipt by the circuit clerk as follows: 44.5% shall be disbursed to the entity authorized by law to receive the fine imposed in the case; 16.825% shall be disbursed to the State Treasurer; and 38.675% shall be disbursed to the county's general corporate fund. Of the 16.825% disbursed to the State Treasurer, 2/17 shall be deposited by the State Treasurer into the Violent Crime Victims Assistance Fund, 5.052/17 shall be deposited into the Traffic and Criminal Conviction Surcharge Fund, 3/17 shall be deposited into the Drivers Education Fund, and 6.948/17 shall be deposited into the Trauma Center Fund. Of the 6.948/17 deposited into the Trauma Center Fund from the 16.825% disbursed to the State Treasurer, 50% shall be disbursed to the Department of Public Health and 50% shall be disbursed to the Department of Healthcare and Family Services. For fiscal year 1993, amounts deposited into the Violent Crime Victims Assistance Fund, the Traffic and Criminal Conviction Surcharge Fund, or the Drivers Education Fund shall not exceed 110% of the amounts deposited into those funds in fiscal year 1991. Any amount that exceeds the 110% limit shall be distributed as follows: 50% shall be disbursed to the county's general corporate fund and 50% shall be disbursed to the entity authorized by law to receive the fine imposed in the case. Not later than March 1 of each year the circuit clerk shall submit a report of the amount of funds remitted to the State Treasurer under this Section during the preceding year based upon independent verification of fines and fees. All counties shall be subject to this Section, except that counties with a population under 2,000,000 may, by ordinance, elect not to be subject to this Section. For offenses subject to this Section, judges shall impose one total sum of money payable for violations. The circuit clerk may add on no additional amounts except for amounts that are required by Sections 27.3a and 27.3c of this Act and subsection (d-6) of Section 5-1101 of the Counties Code, unless those amounts are specifically waived by the judge. With respect to money collected by the circuit clerk as a result of forfeiture of bail, ex parte judgment or guilty plea pursuant to Supreme Court Rule 529, the circuit clerk shall first deduct and pay amounts required by Sections 27.3a and 27.3c of this Act. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(b) In addition to any other fines and court costs assessed by the courts, any person convicted or receiving an order of supervision for driving under the influence of alcohol or drugs shall pay an additional fee of $100 to the clerk of the circuit court. This amount, less 2 1/2% that shall be used to

defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt for deposit into the Trauma Center Fund. This additional fee of $100 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. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection during the preceding calendar year.

(b-1) In addition to any other fines and court costs assessed by the courts, any person convicted or receiving an order of supervision for driving under the influence of alcohol or drugs shall pay an additional fee of $5 to the clerk of the circuit court. This amount, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt 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. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection during the preceding calendar year.

(c) In addition to any other fines and court costs assessed by the courts, any person convicted for a violation of Sections 24-1.1, 24-1.2, or 24-1.5 of the Criminal Code of 1961 or a person sentenced for a violation of the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act shall pay an additional fee of $100 to the clerk of the circuit court. This amount, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt for deposit into the Trauma Center Fund. This additional fee of $100 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. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection during the preceding calendar year.

(c-1) In addition to any other fines and court costs assessed by the courts, any person sentenced for a violation of the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act shall pay an additional fee of $5 to the clerk of the circuit court. This amount, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt 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. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection during the preceding calendar year.

(d) The following amounts must be remitted to the State Treasurer for deposit into the Illinois Animal Abuse Fund:

(1) 50% of the amounts collected for felony offenses under Sections 3, 3.01, 3.02, 3.03, 4, 4.01, 4.03, 4.04, 5, 5.01, 6, 7, 7.5, 7.15, and 16 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961;

(2) 20% of the amounts collected for Class A and Class B misdemeanors under Sections 3, 3.01, 4, 4.01, 4.03, 4.04, 5, 5.01, 6, 7, 7.1, 7.5, 7.15, and 16 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961; and

(3) 50% of the amounts collected for Class C misdemeanors under Sections 4.01 and 7.1 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961.

(e) Any person who receives a disposition of court supervision for a violation of the Illinois Vehicle Code or a similar provision of a local ordinance shall, in addition to any other fines, fees, and court costs, pay an additional fee of $20, to be disbursed as provided in Section 16-104c of the Illinois Vehicle Code. In addition to the fee of $20, the person shall also pay a fee of $5, if not waived by the court. If this $5 fee is collected, $4.50 of the fee shall be deposited into the Circuit Court Clerk Operation and Administrative Fund created by the Clerk of the Circuit Court and 50 cents of the fee shall be deposited into the Prisoner Review Board Vehicle and Equipment Fund in the State treasury.

(f) This Section does not apply to the additional child pornography fines assessed and collected under Section 5-9-1.14 of the Unified Code of Corrections.

(g) ~~(f)~~ Of the amounts collected as fines under subsection (b) of Section 3-712 of the Illinois Vehicle Code, 99% shall be deposited into the Illinois Military Family Relief Fund and 1% shall be deposited into the Circuit Court Clerk Operation and Administrative Fund created by the Clerk of the Circuit Court to be used to offset the costs incurred by the Circuit Court Clerk in performing the additional duties required to collect and disburse funds to entities of State and local government as provided by law.

(Source: P.A. 94-556, eff. 9-11-05; 94-1009, eff. 1-1-07; 95-191, eff. 1-1-08; 95-291, eff. 1-1-08; 95-428, eff. 8-24-07; revised 11-19-07.)

(Text of Section after amendment by P.A. 95-600)

Sec. 27.6. (a) All fees, fines, costs, additional penalties, bail balances assessed or forfeited, and any other amount paid by a person to the circuit clerk equalling an amount of $55 or more, except the fine imposed by Section 5-9-1.15 ~~5-9-1.14~~ of the Unified Code of Corrections, the additional fee required by subsections (b) and (c), restitution under Section 5-5-6 of the Unified Code of Corrections, the additional fee collected pursuant to subsection (d-6) of Section 5-1101 of the Counties Code and thereafter, any fees collected for reimbursement for the costs of an emergency response as provided under Section 11-501 of the Illinois Vehicle Code, any fees collected for attending a traffic safety program under paragraph (c) of Supreme Court Rule 529, any fee collected on behalf of a State's Attorney under Section 4-2002 of the Counties Code or a sheriff under Section 4-5001 of the Counties Code, or any cost imposed under Section 124A-5 of the Code of Criminal Procedure of 1963, for convictions, orders of supervision, or any other disposition for a violation of Chapters 3, 4, 6, 11, and 12 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a similar provision of a local ordinance, and except as provided in subsections (d) and (g) ~~(f)~~ shall be disbursed within 60 days after receipt by the circuit clerk as follows: 44.5% shall be disbursed to the entity authorized by law to receive the fine imposed in the case; 16.825% shall be disbursed to the State Treasurer; and 38.675% shall be disbursed to the county's general corporate fund. Of the 16.825% disbursed to the State Treasurer, 2/17 shall be deposited by the State Treasurer into the Violent Crime Victims Assistance Fund, 5.052/17 shall be deposited into the Traffic and Criminal Conviction Surcharge Fund, 3/17 shall be deposited into the Drivers Education Fund, and 6.948/17 shall be deposited into the Trauma Center Fund. Of the 6.948/17 deposited into the Trauma Center Fund from the 16.825% disbursed to the State Treasurer, 50% shall be disbursed to the Department of Public Health and 50% shall be disbursed to the Department of Healthcare and Family Services. For fiscal year 1993, amounts deposited into the Violent Crime Victims Assistance Fund, the Traffic and Criminal Conviction Surcharge Fund, or the Drivers Education Fund shall not exceed 110% of the amounts deposited into those funds in fiscal year 1991. Any amount that exceeds the 110% limit shall be distributed as follows: 50% shall be disbursed to the county's general corporate fund and 50% shall be disbursed to the entity authorized by law to receive the fine imposed in the case. Not later than March 1 of each year the circuit clerk shall submit a report of the amount of funds remitted to the State Treasurer under this Section during the preceding year based upon independent verification of fines and fees. All counties shall be subject to this Section, except that counties with a population under 2,000,000 may, by ordinance, elect not to be subject to this Section. For offenses subject to this Section, judges shall impose one total sum of money payable for violations. The circuit clerk may add on no additional amounts except for amounts that are required by Sections 27.3a and 27.3c of this Act and subsection (d-6) of Section 5-1101 of the Counties Code, unless those amounts are specifically waived by the judge. With respect to money collected by the circuit clerk as a result of forfeiture of bail, ex parte judgment or guilty plea pursuant to Supreme Court Rule 529, the circuit clerk shall first deduct and pay amounts required by Sections 27.3a and 27.3c of this Act. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(b) In addition to any other fines and court costs assessed by the courts, any person convicted or receiving an order of supervision for driving under the influence of alcohol or drugs shall pay an additional fee of $100 to the clerk of the circuit court. This amount, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt for deposit into the Trauma Center Fund. This additional fee of $100 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. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection during the preceding calendar year.

(b-1) In addition to any other fines and court costs assessed by the courts, any person convicted or receiving an order of supervision for driving under the influence of alcohol or drugs shall pay an additional fee of $5 to the clerk of the circuit court. This amount, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt 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. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection during the preceding calendar year.

(c) In addition to any other fines and court costs assessed by the courts, any person convicted for a violation of Sections 24-1.1, 24-1.2, or 24-1.5 of the Criminal Code of 1961 or a person sentenced for a

violation of the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act shall pay an additional fee of $100 to the clerk of the circuit court. This amount, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt for deposit into the Trauma Center Fund. This additional fee of $100 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. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection during the preceding calendar year.

(c-1) In addition to any other fines and court costs assessed by the courts, any person sentenced for a violation of the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act shall pay an additional fee of $5 to the clerk of the circuit court. This amount, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt 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. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection during the preceding calendar year.

(d) The following amounts must be remitted to the State Treasurer for deposit into the Illinois Animal Abuse Fund:

(1) 50% of the amounts collected for felony offenses under Sections 3, 3.01, 3.02, 3.03, 4, 4.01, 4.03, 4.04, 5, 5.01, 6, 7, 7.5, 7.15, and 16 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961;

(2) 20% of the amounts collected for Class A and Class B misdemeanors under Sections 3, 3.01, 4, 4.01, 4.03, 4.04, 5, 5.01, 6, 7, 7.1, 7.5, 7.15, and 16 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961; and

(3) 50% of the amounts collected for Class C misdemeanors under Sections 4.01 and 7.1 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961.

(e) Any person who receives a disposition of court supervision for a violation of the Illinois Vehicle Code or a similar provision of a local ordinance shall, in addition to any other fines, fees, and court costs, pay an additional fee of $20, to be disbursed as provided in Section 16-104c of the Illinois Vehicle Code. In addition to the fee of $20, the person shall also pay a fee of $5, if not waived by the court. If this $5 fee is collected, $4.50 of the fee shall be deposited into the Circuit Court Clerk Operation and Administrative Fund created by the Clerk of the Circuit Court and 50 cents of the fee shall be deposited into the Prisoner Review Board Vehicle and Equipment Fund in the State treasury.

(f) This Section does not apply to the additional child pornography fines assessed and collected under Section 5-9-1.14 of the Unified Code of Corrections.

(g) ~~(f)~~ Of the amounts collected as fines under subsection (b) of Section 3-712 of the Illinois Vehicle Code, 99% shall be deposited into the Illinois Military Family Relief Fund and 1% shall be deposited into the Circuit Court Clerk Operation and Administrative Fund created by the Clerk of the Circuit Court to be used to offset the costs incurred by the Circuit Court Clerk in performing the additional duties required to collect and disburse funds to entities of State and local government as provided by law.
(Source: P.A. 94-556, eff. 9-11-05; 94-1009, eff. 1-1-07; 95-191, eff. 1-1-08; 95-291, eff. 1-1-08; 95-428, eff. 8-24-07; 95-600, eff. 6-1-08; revised 11-19-07.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Senate Floor Amendment No. 4 was held in the Committee on Rules.

There being no further amendments, the foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Jacobs, **Senate Bill No. 2188,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Hultgren, **Senate Bill No. 2207,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Cullerton, **Senate Bill No. 2214** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Local Government, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 2214

AMENDMENT NO. 1. Amend Senate Bill 2214 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by changing Section 11-42-1 as follows:

(65 ILCS 5/11-42-1) (from Ch. 24, par. 11-42-1)

Sec. 11-42-1. The corporate authorities of each municipality may license, tax, and regulate auctioneers, private detectives, demolition contractors, money changers, bankers, brokers other than insurance brokers, barbers, and the ~~the~~ keepers or owners of lumber yards, lumber storehouses, livery stables, public scales, ice cream parlors, coffee houses, florists, detective agencies, barber shops and sellers of tickets for theatricals, shows, amusements, athletic events and other exhibitions at a place other than the theatre or location where the theatricals, shows, amusements, athletic events and other exhibitions are given or exhibited.

(Source: P.A. 89-372, eff. 1-1-96.)".

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Jacobs, **Senate Bill No. 2216** having been printed, was taken up, read by title a second time.

Senator Jacobs offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2216

AMENDMENT NO. 1. Amend Senate Bill 2216 on page 1, line 13, by inserting after "client" the following:

"if the plaintiff prevails in the law suit".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Cullerton, **Senate Bill No. 2222** having been printed, was taken up, read by title a second time.

Senate Committee Amendment No. 1 was held in the Committee on Rules.

The following amendment was offered in the Committee on Licensed Activities, adopted and ordered printed:

AMENDMENT NO. 2 TO SENATE BILL 2222

AMENDMENT NO. 2. Amend Senate Bill 2222 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Insurance Code is amended by changing Sections 512-3, 512-4, and 512-5 as follows:

(215 ILCS 5/512-3) (from Ch. 73, par. 1065.59-3)

Sec. 512-3. Definitions. For the purposes of this Article, unless the context otherwise requires, the terms defined in this Article have the meanings ascribed to them herein:

(a) "Third party prescription program" or "program" means any system of providing for the reimbursement of pharmaceutical services and prescription drug products offered or operated in this State under a contractual arrangement or agreement between a provider of such services and another party who is not the consumer of those services and products. Such programs may include, but need not be limited to, employee benefit plans whereby a consumer receives prescription drugs or other pharmaceutical services and those services are paid for by an agent of the employer or others.

(b) "Third party program administrator" or "administrator" means any person, partnership or

corporation who issues or causes to be issued any payment or reimbursement to a provider for services rendered pursuant to a third party prescription program, but does not include the Director of Healthcare and Family Services or any agent authorized by the Director to reimburse a provider of services rendered pursuant to a program of which the Department of Healthcare and Family Services is the third party.

(c) "Director" means the Director of the Division of Insurance of the Department of Financial and Professional Regulation.

(d) "Division" means the Division of Insurance of the Department of Financial and Professional Regulation.

(Source: P.A. 95-331, eff. 8-21-07.)

(215 ILCS 5/512-4) (from Ch. 73, par. 1065.59-4)

Sec. 512-4. Registration. All third party prescription programs and administrators doing business in the State shall register with the Director ~~of Insurance~~. The Director shall promulgate regulations establishing criteria for registration in accordance with the terms of this Article. The Director may by rule establish an annual registration fee for each third party administrator.

(Source: P.A. 82-1005.)

(215 ILCS 5/512-5) (from Ch. 73, par. 1065.59-5)

Sec. 512-5. Fiduciary and Bonding Requirements. A third party prescription program administrator shall (1) establish and maintain a fiduciary account, separate and apart from any and all other accounts, for the receipt and disbursement of funds for reimbursement of providers of services under the program, or (2) post, or cause to be posted, a bond of indemnity in an amount equal to not less than 10% of the total estimated annual reimbursements under the program.

The establishment of such fiduciary accounts and bonds shall be consistent with applicable State law. If a bond of indemnity is posted, it shall be held by the Director ~~of Insurance~~ for the benefit and indemnification of the providers of services under the third party prescription program.

An administrator who operates more than one third party prescription program may establish and maintain a separate fiduciary account or bond of indemnity for each such program, or may operate and maintain a consolidated fiduciary account or bond of indemnity for all such programs.

The requirements of this Section do not apply to any third party prescription program administered by or on behalf of any insurance company, Health Care Service Plan Corporation or Pharmaceutical Service Plan Corporation authorized to do business in the State of Illinois.

(Source: P.A. 82-1005.)".

Senate Committee Amendment No. 3 and Senate Floor Amendment Nos. 4 and 5 were held in the Committee on Rules.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Raoul, **Senate Bill No. 2287** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Judiciary Civil Law, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 2287

AMENDMENT NO. 1. Amend Senate Bill 2287, on page 2, line 12, by replacing "third party" with "prospective landlord".

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Clayborne, **Senate Bill No. 2297** having been printed, was taken up, read by title a second time.

The following amendments were offered in the Committee on Local Government, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 2297

AMENDMENT NO. 1. Amend Senate Bill 2297 on page 2, by replacing lines 5 through 7 with the following:

"(b) If a municipality with a population of less than 1,000,000 has never awarded a franchise to a

private entity for the collection of waste from non-residential locations, then that municipality may not award such a franchise without"; and

on page 2, line 15, after the period, by inserting the following:

"At the public hearing, the municipality must disclose and discuss the franchise fee or portion of payment of collection services that it will receive under the proposed franchise."; and

on page 3, immediately below line 5, by inserting the following:

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

Senator Clayborne offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2297

AMENDMENT NO. 2. Amend Senate Bill 2297, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by changing Section 11-19-1 as follows:
(65 ILCS 5/11-19-1) (from Ch. 24, par. 11-19-1)
Sec. 11-19-1. Contracts.
(a) Any city, village or incorporated town may make contracts with any other city, village, or incorporated town or with any person, corporation, or county, or any agency created by intergovernmental agreement, for more than one year and not exceeding 30 years relating to the collection and final disposition, or relating solely to either the collection or final disposition of garbage, refuse and ashes. A municipality may contract with private industry to operate a designated facility for the disposal, treatment or recycling of solid waste, and may enter into contracts with private firms or local governments for the delivery of waste to such facility. In regard to a contract involving a garbage, refuse, or garbage and refuse incineration facility, the 30 year contract limitation imposed by this Section shall be computed so that the 30 years shall not begin to run until the date on which the facility actually begins accepting garbage or refuse. The payments required in regard to any contract entered into under this Division 19 shall not be regarded as indebtedness of the city, village, or incorporated town, as the case may be, for the purpose of any debt limitation imposed by any law.
(b) If a municipality with a population of less than 1,000,000 has never awarded a franchise to a private entity for the collection of waste from non-residential locations, then that municipality may not award such a franchise without first: (i) holding at least one public hearing seeking comment on the advisability of awarding such a franchise; (ii) providing at least 30 days' written notice of the hearing, delivered by first class mail to all private entities that provide non-residential waste collection services within the municipality that the municipality is able to identify through its records; and (iii) providing public notice of the hearing. At the public hearing, the municipality must disclose and discuss the proposed franchise fee or calculation formula of such franchise fee that it will receive under the proposed franchise.
(c) If a municipality with a population of less than 1,000,000 has never awarded a franchise to a private entity for the collection of waste from non-residential locations, then a private entity may not begin providing waste collection services to non-residential locations under a franchise agreement with that municipality at any time before the date that is 15 months after the date the ordinance or resolution approving the award of the franchise is adopted.
(d) For purposes of this Section, "waste" means garbage, refuse, or ashes as defined in Section 11-19-2.
(e) A home rule unit may not award a franchise to a private entity for the collection of waste in a manner contrary to the provisions of this Section. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.
(Source: P.A. 86-1023; 86-1025; 86-1039; 86-1475.)

Section 99. Effective date. This Act takes effect October 1, 2008.".

The motion prevailed.
And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Sullivan, **Senate Bill No. 2300** having been printed, was taken up, read by title a second time.

The following amendments were offered in the Committee on Public Health, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 2300

AMENDMENT NO. 1. Amend Senate Bill 2300 on page 1, lines 22 and 23, by replacing "ambulance service providers" with "for ground ambulance services ~~ambulance service providers~~"; and

on page 5, line 16, after "of", by inserting "a licensed ground ambulance and does not include transportation services provided by a"; and

on page 5, line 19, by replacing "Illinois Emergency Medical Services Systems Act" with "Emergency Medical Services (EMS) Systems Act".

Senator Sullivan offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2300

AMENDMENT NO. 2. Amend Senate Bill 2300, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Public Aid Code is amended by changing Section 5-4.2 as follows:

(305 ILCS 5/5-4.2) (from Ch. 23, par. 5-4.2)

Sec. 5-4.2. Ground ambulance ~~Ambulance~~ services payments.

(a) For purposes of this Section, the following terms have the following meanings:

"Department" means the Illinois Department of Healthcare and Family Services.

"Ground ambulance services provider" means a vehicle service provider as described in the Emergency Medical Services (EMS) Systems Act that operates licensed ambulances for the purpose of providing emergency ambulance services, or non-emergency ambulance services, or both. For purposes of this Section, this includes both ambulance providers and ambulance suppliers as described by the Centers for Medicare and Medicaid Services.

"Ground ambulance services" means medical transportation services that are described as ground ambulance services by the Centers for Medicare and Medicaid Services and provided in a vehicle that is licensed as an ambulance by the Illinois Department of Public Health pursuant to the Emergency Medical Services (EMS) Systems Act.

"Rural county" means: any county not located in a U.S. Bureau of the Census Metropolitan Statistical Area (MSA); or any county located within a U.S. Bureau of the Census Metropolitan Statistical Area but having a population of 60,000 or less.

(b) It is the intent of the General Assembly to provide for the reimbursement of ground ambulance services as part of the State Medicaid plan and to provide adequate reimbursement for ground ambulance services under the State Medicaid plan so as to ensure adequate access to ground ambulance services for both recipients of aid under this Article and for the general population of Illinois. Unless otherwise indicated in this Section, the practices of the Department concerning payments for ground ambulance services provided to recipients of aid under this Article shall be consistent with the payment principles of Medicare, including the statutes, regulations, policies, procedures, principles, definitions, guidelines, coding systems, including the ambulance condition coding system, and manuals used by the Centers for Medicare and Medicaid Services and the Medicare Part B Carrier for the State of Illinois to determine the payment system to ground ambulance services providers under Title XVIII of the Social Security Act.

(c) For ground ambulance services provided to a recipient of aid under this Article on or after July 1, 2008, the Department shall reimburse ground ambulance services providers for base charges and mileage charges based on the lesser of the provider's charge, as reflected on the provider's claim form, or the Illinois Medicaid Ambulance Fee Schedule rates calculated in accordance with this Section.

Effective July 1, 2008 the Illinois Medicaid Ambulance Fee Schedule shall be established and shall include only the ground ambulance services rates outlined in the Medicare Ambulance Fee Schedule as promulgated by the Centers for Medicare and Medicaid Services and adjusted for the 4 Medicare

Localities in Illinois, with an adjustment of 100% of the Medicare Ambulance Fee Schedule rates, by Medicare Locality, for both base rates and mileage for rural counties, and an adjustment of 80% of the Medicare Ambulance Fee Schedule rates, by Medicare Locality, for both base rates and mileage for all other counties. The transition from the current payment system to the Illinois Medicaid Ambulance Fee Schedule shall be by a 3-year phase-in as follows:

(1) Effective July 1, 2008 through June 30, 2009, for each individual base rate and mileage rate, the payment rate for ground ambulance services shall be based on 66.7% of the Medicaid rate in effect as of January 1, 2008 and 33.3% of the Illinois Medicaid Ambulance Fee Schedule amount in effect on July 1, 2008 for the designated Medicare Locality, except that any rate that was previously approved by the Department that exceeds this amount shall remain in force.

(2) Effective July 1, 2009 through June 30, 2010, for each individual base rate and mileage rate, the payment rate for ground ambulance services shall be based on 33.3% of the Medicaid rate in effect as of January 1, 2008 and 66.7% of the Illinois Medicaid Ambulance Fee Schedule amount in effect on July 1, 2009 for the designated Medicare Locality, except that any rate that was previously approved by the Department that exceeds this amount shall remain in force.

(3) Effective July 1, 2010, for each individual base rate and mileage rate, the payment rate for ground ambulance services shall be based on 100% of the Illinois Medicaid Ambulance Fee Schedule amount in effect on July 1, 2010 for the designated Medicare Locality, except that any rate that was previously approved by the Department that exceeds this amount shall remain in force.

On July 1, 2009, and on each July 1 thereafter, the Department shall update the Illinois Medicaid Ambulance Fee Schedule rates to be in compliance with the Medicare Ambulance Fee Schedule rates for ground ambulance services in effect at the time of the update, in the manner prescribed in the second paragraph of this subsection (c).

(d) Payment for mileage shall be per loaded mile with no loaded mileage included in the base rate. If a natural disaster, weather, or other conditions necessitate a route other than the most direct route, reimbursement shall be based on the actual distance traveled. Although a recognized deviation from the payment principles in subsection (b) of this Section, it is the intent of the General Assembly that the mileage rate for urban providers, as defined by the Centers for Medicare and Medicaid Services, be the only mileage rate paid under the Illinois Medicaid Ambulance Fee Schedule and that no other mileage rates that act as enhancements to the urban mileage rate, whether permanent or temporary, be recognized by the Department.

(e) The requirement for payment of ground ambulance services by the Department is deemed to be met if the services are provided pursuant to a request for evaluation, treatment, and transport from an individual with a condition of such a nature that a prudent layperson would have reasonably expected that a delay in seeking immediate medical attention would have been hazardous to life or health. This standard is deemed to be met if there is an emergency medical condition manifesting itself by acute symptoms of sufficient severity, including but not limited to severe pain, such that a prudent layperson who possesses an average knowledge of medicine and health can reasonably expect that the absence of immediate medical attention could result in placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy, cause serious impairment to bodily functions, or cause serious dysfunction of any bodily organ or part.

(f) For ground ambulance services provided to a recipient enrolled in a Medicaid managed care plan by a provider that is not a contracted provider to the Medicaid managed care plan in question, payment for ground ambulance services by the Medicaid managed care plan shall be the lesser of the provider's charge, as reflected on the provider's claim form, or the Illinois Medicaid Ambulance Fee Schedule rates calculated in accordance with this Section.

(g) Nothing in this Section prohibits the Department from setting reimbursement rates for out-of-State ground ambulance services providers by administrative rule.

~~For ambulance services provided to a recipient of aid under this Article on or after January 1, 1993, the Illinois Department shall reimburse ambulance service providers at rates calculated in accordance with this Section. It is the intent of the General Assembly to provide adequate reimbursement for ambulance services so as to ensure adequate access to services for recipients of aid under this Article and to provide appropriate incentives to ambulance service providers to provide services in an efficient and cost-effective manner. Thus, it is the intent of the General Assembly that the Illinois Department implement a reimbursement system for ambulance services that, to the extent practicable and subject to the availability of funds appropriated by the General Assembly for this purpose, is consistent with the payment principles of Medicare. To ensure uniformity between the payment principles of Medicare and Medicaid, the Illinois Department shall follow, to the extent necessary and practicable and subject to the availability of funds appropriated by the General Assembly for this purpose, the statutes, laws,~~

~~regulations, policies, procedures, principles, definitions, guidelines, and manuals used to determine the amounts paid to ambulance service providers under Title XVIII of the Social Security Act (Medicare).~~

~~For ambulance services provided to a recipient of aid under this Article on or after January 1, 1996, the Illinois Department shall reimburse ambulance service providers based upon the actual distance traveled if a natural disaster, weather conditions, road repairs, or traffic congestion necessitates the use of a route other than the most direct route.~~

~~For purposes of this Section, "ambulance services" includes medical transportation services provided by means of an ambulance, medi-car, service car, or taxi.~~

~~This Section does not prohibit separate billing by ambulance service providers for oxygen furnished while providing advanced life support services.~~

(h) Beginning with services rendered on or after July 1, 2008, all providers of non-emergency medi-car and service car transportation must certify that the driver and employee attendant, as applicable, have completed a safety program approved by the Department to protect both the patient and the driver, prior to transporting a patient. The provider must maintain this certification in its records. The provider shall produce such documentation upon demand by the Department or its representative. Failure to produce documentation of such training shall result in recovery of any payments made by the Department for services rendered by a non-certified driver or employee attendant. Medi-car and service car providers must maintain legible documentation in their records of the driver and, as applicable, employee attendant that actually transported the patient. Providers must recertify all drivers and employee attendants every 3 years.

Notwithstanding the requirements above, any public transportation provider of medi-car and service car transportation that receives federal funding under 49 U.S.C. 5307 and 5311 need not certify its drivers and employee attendants under this Section, since safety training is already federally mandated. (Source: P.A. 95-501, eff. 8-28-07.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Garrett, **Senate Bill No. 2313** having been printed, was taken up, read by title a second time.

The following amendments were offered in the Committee on Environment and Energy, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 2313

AMENDMENT NO. 1. Amend Senate Bill 2313 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Electronic Products Recycling and Reuse Act.

Section 5. Findings and purpose.

(a) The General Assembly finds all of the following:

(1) Electronic products are the fastest growing portion of the solid waste stream. In 2005, 2,600,000 tons of electronic products became obsolete yet only 13% of those products were recycled.

(2) Many electronic products contain lead, mercury, cadmium, hexavalent chromium, and other materials that pose environmental and health risks that must be managed.

(3) Many obsolete electronic products can be recycled or refurbished for reuse and then returned to the economic mainstream in the form of raw materials or products.

(4) Electronic products contain metals, plastics, and leaded glass that have resale value. The reuse of these components conserves natural resources and energy, and the reuse also reduces air and water pollution and greenhouse gas emissions.

(5) A management is necessary to place the reuse and recycling of obsolete residential electronic products as the preferred management strategy over incineration and landfill disposal.

(6) The Illinois Recycling Economic Information Study of 2001 estimates that the total economic impact of establishing statewide recycling and reuse programs for residential electronic

products may result in the creation of nearly 4,000 new jobs and $740 million in annual receipts.

(7) The State-appointed Computer Equipment Disposal and Recycling Commission issued a final report in May 2006 recommending legislative, regulatory, or other actions to properly address the recycling and reuse of obsolete residential electronic products.

(b) The purpose of this Act is to set forth procedures by which the recycling and processing for reuse of covered electronic devices will be accomplished in Illinois.

Section 10. Definitions. As used in this Act:

"Agency" means the Environmental Protection Agency.

"Cathode ray tube" means a vacuum tube or picture tube used to convert an electronic signal into a visual image, such as a television or computer monitor.

"Collector" means a person who receives covered electronic devices or eligible electronic devices directly from a residence for recycling or processing for reuse. "Collector" includes, but is not limited to, manufacturers, recyclers, and refurbishers who receive CEDs or EEDs directly from the public.

"Computer", often referred to as a "personal computer" or "PC", means a desktop or notebook computer as further defined below and used only in a residence, but does not mean an automated typewriter, electronic printer, mobile telephone, portable hand-held calculator, portable digital assistant (PDA), MP3 player, or other similar device. "Computer" does not include computer peripherals, commonly known as cables, mouse, or keyboard. "Computer" is further defined as either:

(1) "Desktop computer", which means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions for general purpose needs that are met through interaction with a number of software programs contained therein, and that is not designed to exclusively perform a specific type of logical, arithmetic, or storage function or other limited or specialized application. Human interface with a desktop computer is achieved through a standalone keyboard, stand-alone monitor, or other display unit, and a stand-alone mouse or other pointing device, and is designed for a single user. A desktop computer has a main unit that is intended to be persistently located in a single location, often on a desk or on the floor. A desktop computer is not designed for portability and generally utilizes an external monitor, keyboard, and mouse with an external or internal power supply for a power source. Desktop computer does not include an automated typewriter or typesetter; or

(2) "Notebook computer", which means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions for general purpose needs that are met through interaction with a number of software programs contained therein, and that is not designed to exclusively perform a specific type of logical, arithmetic, or storage function or other limited or specialized application. Human interface with a notebook computer is achieved through a keyboard, video display greater than 4 inches in size, and mouse or other pointing device, all of which are contained within the construction of the unit that comprises the notebook computer; supplemental stand-alone interface devices typically can also be attached to the notebook computer. Notebook computers can use external, internal, or batteries for a power source. Notebook computer does not include a portable handheld calculator, or a portable digital assistant or similar specialized device. A notebook computer has an incorporated video display greater than 4 inches in size and can be carried as one unit by an individual. A notebook computer is sometimes referred to as a laptop computer.

"Computer monitor" means an electronic device that is a cathode-ray tube or flat panel display primarily intended to display information from a computer and is used only in a residence.

"Covered electronic device" or "CED" means any computer, computer monitor, or television that is taken out of service from a residence in this State regardless of purchase location. "Covered electronic device" does not include any of the following:

(1) an electronic device that is a part of a motor vehicle or any component part of a motor vehicle assembled by or for a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;

(2) an electronic device that is functionally or physically part of a larger piece of equipment or that is taken out of service from an industrial, commercial (including retail), library checkout, traffic control, kiosk, security (other than household security), governmental, agricultural, or medical setting, including but not limited to diagnostic, monitoring, or control equipment; or

(3) an electronic device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, water pump, sump pump, or air purifier.

To the extent allowed under federal and State laws and regulations, a CED that is being collected, recycled, or processed for reuse is not considered to be hazardous waste, household waste, solid waste, or special waste.

"Dismantling" means the demanufacturing and shredding of a CED.

"Eligible electronic device" or "EED" means any of the following electronic products taken out of service from a residence in this State regardless of purchase location: mobile telephone; electronic printer; computer cable, mouse, or keyboard; facsimile machine; MP3 player; portable digital assistant (PDA); video game console, video cassette recorder/player, digital video disk player, or similar video device; zip drive; or scanner. To the extent allowed under federal and state laws and regulations, an EED that is being collected, recycled, or processed for reuse is not considered to be hazardous waste, household waste, solid waste, or special waste.

"Manufacturer" means a person, or a successor in interest to a person, under whose brand or label a CED is or was sold at retail. For CEDs sold at retail under a brand or label that is licensed from a person who is a mere brand owner and who does not sell or produce the CED, the person who produced the CED or his or her successor in interest is the manufacturer. For CEDs sold that were at retail under the brand or label of both the retail seller and the person that produced the CED, the person that produced the CED, or his or her successor in interest, is the manufacturer. A retail seller of CEDs may elect to be the manufacturer of one or more CEDs if the retail seller provides written notice to the Agency that it is accepting responsibility as the manufacturer of the CED under this Act and identifies the CEDs for which it is electing to be the manufacturer.

"Orphan CEDs" means those CEDs that are returned for recycling, or processing for reuse, whose manufacturer cannot be identified, or whose manufacturer is no longer conducting business and has no successor in interest.

"Person" means any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other legal entity, or a legal representative, agent, or assign of that entity.

"Processing for reuse" means any method, technique, or process by which CEDs or EEDs that would otherwise be disposed of or discarded are instead separated, processed, and returned to their original intended purposes or to other useful purposes as electronic devices.

"Program Year" means a calendar year. The first program year is 2010.

"Recycler" means a person who engages in the recycling of CEDs or EEDs.

"Recycling" means any method, technique, or process by which CEDs or EEDs that would otherwise be disposed of or discarded are instead collected, separated, or processed and are returned to the economic mainstream in the form of raw materials or products. "Recycling" includes the collection, transportation, dismantling, and shredding of the CEDs or EEDs.

"Refurbisher" means any person who processes CEDs or EEDs for reuse.

"Retailer" means a person who sells, rents, or leases, through sales outlets, catalogues, or the Internet, computers, computer monitors, or televisions at retail to individuals in this State. For purposes of this Act, sales to individuals at retail are considered to be sales for residential use. "Retailer" includes, but is not limited to, manufacturers who sell computers, computer monitors, or televisions at retail directly to individuals in this State.

"Sale" means any retail transfer of title for consideration of title including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet or any other similar electronic means but does not mean financing or leasing.

"Television" means an electronic device (i) containing a cathode-ray tube or flat panel screen the size of which is greater than 4 inches when measured diagonally, (ii) that is intended to receive video programming via broadcast, cable, or satellite transmission or to receive video from surveillance or other similar cameras, and (iii) that is used only in a residence.

Section 15. Statewide recycling and reuse goals for all covered electronic devices.

(a) For program year 2010, the statewide recycling or reuse goal for all CEDs is the product of: (i) the latest population estimate for the State, as published on the U.S. Census Bureau's website on January 1, 2010; multiplied by (ii) 3.54 pounds per capita.

(b) For program year 2011, the statewide recycling or reuse goal for all CEDs is the product of: (i) the 2010 base weight; multiplied by (ii) the 2010 goal attainment percentage.

For the purposes of this subsection (b):

The "2010 base weight" means the greater of: (i) twice the total weight of all CEDs that were recycled or processed for reuse between January 1, 2010 and June 30, 2010 as calculated by the Agency from reports submitted under subsection (i) or (j) of Section 30; or (ii) twice the total weight of all CEDs that

were recycled or processed for reuse between January 1, 2010 and June 30, 2010 as calculated by the Agency from reports submitted under subsection (c) of Section 55.

The "2010 goal attainment percentage" means:

(1) 90% if the 2010 base weight is 90% or less of the statewide recycling or reuse goal for program year 2010;

(2) 95% if the 2010 base weight is greater than 90% but does not exceed 95% of the statewide recycling or reuse goal for program year 2010;

(3) 100% if the 2010 base weight is greater than 95% but does not exceed 100% of the statewide recycling or reuse goal for program year 2010;

(4) 105% if the 2010 base weight is greater than 105% but does not exceed 110% of the statewide recycling or reuse goal for program year 2010; and

(5) 110% if the 2010 base weight is greater than 110% of the statewide recycling or reuse goal for program year 2010.

(c) For program years 2012 and thereafter, the statewide recycling or reuse goal for all CEDs is the product of: (i) the base weight; multiplied by (ii) the goal attainment percentage.

For the purposes of this subsection (c):

The "base weight" means the greater of: (i) the total weight of all CEDs recycled or processed for reuse during the previous program year as calculated by the Agency from reports submitted under subsection (k) or (l) of Section 30; or (ii) the total weight of all CEDs recycled or processed for reuse during the previous program year as calculated by the Agency from reports submitted under subsection (d) of Section 55.

The "goal attainment percentage" means:

(1) 90% if the base weight is 90% or less of the statewide recycling or reuse goal for the previous program year;

(2) 95% if the base weight is greater than 90% but does not exceed 95% of the statewide recycling or reuse goal for the previous program year;

(3) 100% if the base weight is greater than 95% but does not exceed 100% of the statewide recycling or reuse goal for the previous program year;

(4) 105% if the base weight is greater than 105% but does not exceed 110% of the statewide recycling or reuse goal for the previous program year; and

(5) 110% if the base weight is greater than 110% of the statewide recycling or reuse goal for the previous program year.

Section 16. Statewide recycling or reuse goals for all television manufacturers.

(a) For program year 2010, the statewide recycling or reuse goal for television manufacturers is 53% of the statewide goal for all CEDs under subsection (a) of Section 15.

(b) For program year 2011, the statewide recycling or reuse goal for television manufacturers is the product of: (i) an amount equal to the total weight of televisions that were recycled or processed for reuse between January 1, 2010 and June 30, 2010, as reported under subsection (i) of Section 30, divided by the total weight of all CEDs that were recycled or processed for reuse between January 1, 2010 and June 30, 2010, as reported under subsection (i) of Section 30; multiplied by (ii) the statewide recycling or reuse goal for all CEDs under subsection (b) of Section 15.

(c) For program years 2012 and thereafter, the statewide recycling or reuse goal for television manufacturers is the product of: (i) an amount equal to the total weight of televisions recycled or processed for reuse during the previous program year, as reported under subsection (d) of Section 20, divided by the total weight of all CEDs recycled or processed for reuse, as reported under subsection (d) of Section 20; multiplied by (ii) the statewide recycling or reuse goal for all CEDs under subsection (c) of Section 15.

Section 17. Statewide recycling or reuse goals for all computer and computer monitor manufacturers.

(a) For program year 2010, the statewide recycling or reuse goal for computer and computer monitor manufacturers is 47% of the statewide goal for all CEDs under subsection (a) of Section 15.

(b) For program year 2011, the statewide recycling or reuse goal for computer and computer monitor manufacturers is the product of: (i) an amount equal to the total weight of computers and computer monitors that were recycled or processed for reuse between January 1, 2010 and June 30, 2010, as reported under subsection (j) of Section 30, divided by the total weight of all CEDs that were recycled or processed for reuse between January 1, 2010 and June 30, 2010, as reported under subsection (j) of Section 30; multiplied by (ii) statewide recycling or reuse goal for all CEDs under subsection (b) of

Section 15.

(c) For program years 2012 and thereafter, the statewide recycling or reuse goal for for computer and computer monitor manufacturers is the product of: (i) an amount equal to the total weight of computers and computer monitors recycled or processed for reuse during the previous program year, as reported under subsection (d) of Section 20, divided by the total weight of all CEDs recycled or processed for reuse, as reported under subsection (d) of Section 20; multiplied by (ii) statewide recycling or reuse goal for all CEDs under subsection (c) of Section 15.

Section 18. Determination of market shares and return shares.

(a) The recycling or reuse goal for each television manufacturer is based upon that manufacturer's market share. The market share for each television manufacturer is the following:

(1) For program year 2010, the quotient of: (i) the total weight of the manufacturer's televisions that were sold at retail in this State to individuals between October 1, 2008 and March 31, 2009, as reported under subsection (h) of Section 30; divided by (ii) the total weight of all televisions that were sold at retail in this State to individuals between October 1, 2008 and March 31, 2009, as reported under subsection (h) of Section 30.

(2) For program year 2011, the quotient of: (i) the total weight of the manufacturer's televisions that were sold at retail in this State to individuals between January 1, 2010 and June 30, 2010, as reported under subsection (i) of Section 30; divided by (ii) the total weight of all televisions that were sold at retail in this State to individuals between January 1, 2010 and June 30, 2010, as reported under subsection (i) of Section 30.

(3) For program years 2012 and thereafter, the quotient of: (i) the total weight of the manufacturer's televisions that were sold at retail in this State to individuals during the previous program year, as reported under subsection (k) of Section 30; divided by (ii) the total weight of all televisions sold at retail in this State to individuals during the previous program year, as reported under subsection (k) of Section 30.

(b) The recycling or reuse goals for each manufacturer of computers or computer monitors is based upon that manufacturer's return share. The return share for each manufacturer of computers or computer monitors is the following:

(1) For program year 2010, the return share for each manufacturer shall be determined using the information the Florida Department of Environmental Protection used to create its October 5, 2007, report entitled "Quantifying Electronic Product Brand Market Share as a Metric for Apportioning Manufacturer Share of Recycling System Costs". Using the same information that was used to generate Tables 6 and 9 of the report, a manufacturer's return share shall be equal to the quotient of: (i) the sum of the number of the manufacturer's computers received for recycling plus the number of the manufacturer's computer monitors received for recycling, divided by (ii) the sum of the total number of computers received for recycling plus the total number computer monitors received for recycling.

(2) For program year 2011, the quotient of: (i) the total weight of the manufacturer's computers and computer monitors that were taken out of service from a residence in this State and recycled or processed for reuse between January 1, 2010 and June 30, 2010, as reported under subsection (j) of Section 30; divided by (ii) the total weight of all computers and computer monitors that were taken out of service from a residence in this State and recycled or processed for reuse between January 1, 2010 and June 30, 2010, as reported under subsection (j) of Section 30.

(3) For program years 2012 and thereafter, the quotient of: (i) the total weight of the manufacturer's computers and computer monitors that were taken out of service from a residence in this State and recycled or processed for reuse during the previous program year, as reported under subsection (l) of Section 30; divided by (ii) the total weight of all computers and computer monitors that were taken out of service from a residence in this State and recycled or processed for reuse during the previous program year, as reported under subsection (l) of Section 30.

Section 19. Recycling or reuse goals for individual manufacturers.

(a) The individual recycling and reuse goal for each television manufacturer is the product of (i) the statewide goal for the recycling and reuse for all television manufacturers under Section 16; multiplied by (ii) that manufacturer's market share under subsection (a) of Section 18.

(b) The individual recycling and reuse goal for each manufacturer of computers or computer monitors is the product of (i) the statewide goal for the recycling and reuse for all all computer and computer monitor manufacturers under Section 17; multiplied by (ii) that manufacturer's return share under

subsection (b) of Section 18.

Section 20. Agency responsibilities.

(a) The Agency has the authority to monitor compliance with this Act and to refer violations of this Act to the Attorney General.

(b) No later than October 1 of each program year, the Agency shall post on its website a list of underserved counties in the State for the next program year. The list of underserved counties for the first program year is set forth in subsection (a) of Section 60.

(c) By July 1, 2009, the Agency shall implement a county and municipal government education campaign to inform those entities about this Act and the implications on solid waste collection in their localities.

(d) By July 1, 2011 for the first program year, and by April 1 for all subsequent program years, the Agency shall report to the Governor and to the General Assembly annually on the previous program year's performance. The report must be posted on the Agency's website. The report must include, but not be limited to, the following:

(1) the total overall weight of CEDs, as well as the sub-total weight of computers, the sub-total weight of computer monitors, the sub-total weight of televisions, and the total weight of EEDs that were recycled or processed for reuse in the State during the program year, as reported by manufacturers and collectors under Sections 30 and 55;

(2) a listing of all collection sites as set forth under subsection (e) of Section 55;

(3) a statement of the manufacturers' progress toward achieving the statewide recycling goal set forth in Section 15 (calculated from the manufacturer reports pursuant to Section 30 and the collector reports pursuant to Section 55) and any identified State actions that may help expand collection opportunities to help manufacturers achieve the statewide recycling goal;

(4) a listing of any manufacturers whom the Agency referred to the Attorney General's Office for enforcement as a result of a violation of this Act; and

(5) a discussion of the Agency's education and outreach activities.

(e) The Agency shall post on its website a list of registered collectors to whom Illinois residents can bring CEDs and EEDs for recycling or processing for reuse, including links to the collectors' websites and the collectors' phone numbers.

(f) In program years 2012, 2013, and 2014, and at its discretion thereafter, the Agency shall convene and host an Electronic Products Recycling Conference. The Agency may host the conferences alone or with other public entities or with organizations associated with electronic products recycling.

(g) No later than October 1 of each program year, the Agency must post on its website the following information for the next program year:

(1) The overall statewide recycling and reuse goal for CEDs, as well as the sub-goals for televisions, and computers and computer monitors, as set forth in Section 15.

(2) The market shares of television manufacturers and the return shares of computer and computer monitor manufacturers, as set forth in Section 18, and

(3) The individual recycling and reuse goals for each manufacturer, as set forth in Section 19.

Section 30. Manufacturer responsibilities.

(a) Prior to April 1, 2009 for the first program year, and by October 1 for program year 2011 and thereafter, manufacturers whose computers, computer monitors, or televisions are sold in this State must register with the Agency. The registration must be submitted in the form and manner required by the Agency. The registration must include, without limitation, all of the following:

(1) a list of all of the manufacturer's brands of computers, computer monitors, or televisions to be offered for sale in the next program year;

(2) for manufacturers of both televisions and computers or computer monitors, an identification of whether, for residential use, (i) televisions or (ii) computers and computer monitors, represent the larger number of units sold for the manufacturer; and

(3) a statement disclosing whether:

(A) any computer, computer monitor, or television sold in this State exceeds the maximum concentration values established for lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBBs), and polybrominated diphenyl ethers (PBDEEs) under the RoHS (restricting the use of certain hazardous substances in electrical and electronic equipment) Directive

2002/95/EC of the European Parliament and Council and any amendments thereto and, if so, an identification of that computer, computer monitor, or television; or

(B) the manufacturer has received an exemption from one or more of those maximum concentration values under the RoHS Directive that has been approved and published by the European Commission.

If, during the program year, a manufacturer's computer, computer monitor, or television is sold or offered for sale under a new brand that is not listed in the manufacturer's registration, then, within 30 days after the first sale or offer for sale under the new brand, the manufacturer must amend its registration to add the new brand.

(b) Prior to July 1, 2009 for the first program year, and by November 1 for program years 2011 and later, all manufacturers whose computers, computer monitors, or televisions are sold in the State shall submit to the Agency, at an address prescribed by the Agency, the registration fee for the next program year. The registration fee for program year 2010 is $5,000.

For program years 2011 and later, the registration fee is increased each year by an inflation factor determined by the annual Implicit Price Deflator for Gross National Product, as published by the U.S. Department of Commerce in its Survey of Current Business. The inflation factor must be calculated each year by dividing the latest published annual Implicit Price Deflator for Gross National Product by the annual Implicit Price Deflator for Gross National Product for the previous year. The inflation factor must be rounded to the nearest 1/100th, and the resulting registration fee must be rounded to the nearest whole dollar. No later than October 1 of each program year, the Agency shall post on its website the registration fee for the next program year.

(c) A manufacturer whose computers, computer monitors, or televisions are first sold or offered for sale in this State on or after January 1 of a program year must register with the Agency in accordance with subsection (a) of this Section and submit the registration fee required under subsection (b) of this Section prior to the manufacturer's computers, computer monitors, or televsions being sold or offered for sale.

(d) Each manufacturer shall recycle or process for reuse CEDs and EEDs whose total weight equals or exceeds the manufacturer's individual recycling and reuse goal set forth in Section 19 of this Act. Individual consumers may not be charged an end-of-life fee when bringing their CEDs and EEDs to permanent or temporary collection locations, unless a financial incentive of equal value, such as a coupon, is provided. Collectors may charge a fee for premium services such as curbside collection, home pick-up, or a similar method of collection.

When determining whether a manufacturer has met or exceeded its individual recycling and reuse goal set forth in Section 19 of this Act, all of the following adjustments must be made:

(1) The total weight of CEDs processed for reuse by the manufacturer, its recyclers, or its refurbishers is doubled.

(2) The total weight of CEDs is tripled if they are donated for reuse by the manufacturer to a primary or secondary public education institution or to a not-for-profit entity that is established under Section 501(c)(3) of the Internal Revenue Code of 1986 and whose principal mission is to assist low-income children or families or to assist the developmentally disabled in Illinois. This subsection applies only to CEDs for which the manufacturer has received a written confirmation that the recipient has accepted the donation. Copies of all written confirmations must be submitted in the annual report required under Section 30.

(3) The total weight of CEDs collected by manufacturers free of charge in underserved counties is doubled. This subsection applies only to CEDs that are documented by collectors as being collected or received free of charge in underserved counties. This documentation must include, without limitation, the date and location of collection or receipt, the weight of the CEDs collected or received, and an acknowledgement by the collector that the CEDs were collected or received free of charge. Copies of the documentation must be submitted in the annual report required under subsection (h), (i), (j), (k), or (l) of Section 30.

(e) Manufacturers of computers or computer monitors, either individually or collectively, shall hire an independent third-party auditor to perform statistically significant return share samples of CEDs received by recyclers and refurbishers for recycling or processing for reuse. Each third-party auditor shall perform a return share sample of CEDs for at least one 8-hour period, once a quarter during the program year at the facility of each registered recycler and refurbisher under contract with the manufacturer or group of manufacturers that has hired the auditor. The audit shall contain the following data:

(1) the number and weight of CEDs, sorted by brand name and product type, including a category for orphan CEDs;

(2) the total weight of the sample by product type;

(3) the date, location, and time of the sampling;

(4) the name or names of the manufacturer for whom the recycler is performing activities under this Act; and

(5) a certification by the third-party auditor that the sampling is statistically significant and, if not, an explanation as to what occurred to render the sampling insignificant.

The manufacturer shall notify the Agency 30 days prior to the third-party auditor's return share sampling by providing the Agency with the time and date on which the third-party will perform the return share sample. The Agency may, at its discretion, be present at any sampling event and may audit the methodology and the results of the third-party auditor.

No less than 30 days after the close of each calendar quarter, the manufacturer shall submit to the Agency the results of the third-party samplings conducted during the quarter. The results shall be submitted in the form and manner required by the Agency.

(f) Manufacturers shall ensure that only recyclers and refurbishers that have registered with the Agency are used to meet the individual recycling and reuse goals set forth in this Act.

(g) Manufacturers shall ensure that the recyclers and refurbishers used to meet the individual recycling and reuse goals set forth in this Act shall, at a minimum, comply with the standards set forth under subsection (d) of Section 50 of this Act.

(h) By August 15, 2009, television manufacturers shall submit to the Agency, in the form and manner required by the Agency, a report that contains the total weight of televisions sold under each of the manufacturer's brands to individuals at retail in this State, as set forth in the reports to manufacturers by retailers under subsection (c) of Section 40.

(i) No later than September 1, 2010, television manufacturers must submit to the Agency, in the form and manner required by the Agency, a report for the period January 1, 2010 through June 30, 2010 that contains the following information:

(1) the total weight of televisions sold under each of the manufacturer's brands to individuals at retail in this State, as set forth in the reports submitted under subsection (d) of Section 40; and

(2) the total weight of computers, the total weight of computer monitors, the total weight of televisions, and the total weight of EEDs recycled or processed for reuse.

(j) By August 15, 2010, computer and computer monitor manufacturers shall submit to the Agency, on forms and in a format prescribed by the Agency, a report for the period January 1, 2010 through June 30, 2010, that contains the total weight of computers, the total weight of computer monitors, the total weight of televisions, and the total weight of EEDs, recycled or processed for reuse.

(k) No later than April 1 of program years 2011 and thereafter, television manufacturers shall submit to the Agency, in the form and manner required by the Agency, a report that contains the following information for the previous program year:

(1) the total weight of televisions sold under each of the manufacturer's brands to individuals at retail in this State, as set forth in the reports submitted under subsection (e) of Section 40;

(2) the total weight of computers, the total weight of computer monitors, the total weight of televisions, and the total weight of EEDs recycled or processed for reuse;

(3) the identification of all weights that are adjusted under subsection (d) of this Section. For all weights adjusted under item (2) of subsection (d), the manufacturer must include copies of the written confirmation required under that subsection;

(4) a list of each recycler, refurbisher, and collector used by the manufacturer to fulfill the manufacturer's individual recycling and reuse goal set forth in Section 19 of this Act;

(5) a summary of the manufacturer's consumer education program required under subsection (m) of this Section.

(l) No later than April 1 of program years 2011 and thereafter, computer and computer monitor manufacturers shall submit to the Agency, on forms and in a format prescribed by the Agency, a report that contains the following information for the previous program year:

(1) the total weight of computers, the total weight of computer monitors, the total weight of televisions, and the total weight of and EEDs recycled or processed for reuse;

(2) the identification of all weights that are adjusted under subsection (d) of this Section. For all weights adjusted under item (2) of subsection (d), the manufacturer must include copies of the written confirmation required under that subsection;

(3) a list of each recycler, refurbisher, and collector used by the manufacturer to fulfill the manufacturer's individual recycling and reuse goal set forth in subsection (c) of Section 15

of this Act; and

(4) a summary of the manufacturer's consumer education program required under subsection (m) of this Section.

(m) Manufacturers must develop and maintain a consumer education program that complements and corresponds to the primary retailer-driven campaign required under Section 40 of this Act. The education program shall promote the recycling of electronic products and proper end-of-life management of the products by consumers.

(n) Beginning January 1 2010, no manufacturer may sell a computer, computer monitor, or television in this State unless the manufacturer is registered with the State as required under this Act, has paid the required registration fee, and is otherwise in compliance with the provisions of this Act.

(o) Beginning January 1, 2010, no manufacturer may sell a computer, computer monitor, or television in this State unless the manufacturer's brand name is permanently affixed to, and is readily visible on, the computer, computer monitor, or television.

Section 40. Retailer responsibilities.

(a) Retailers shall be a primary source of information about end-of-life options to residential consumers of computers, computer monitors, and televisions. At the time of sale, the retailer shall provide each residential consumer with information from the Agency's website that provides information detailing where and how a consumer can recycle a CED or return a CED for reuse.

(b) Beginning January 1, 2010, no retailer may sell or offer for sale any computer, computer monitor, or television in or for delivery into this State unless:

(1) the computer, computer monitor, or television is labeled with a brand and the label is permanently affixed and readily visible; and

(2) the manufacturer is registered with the Agency and has paid the required registration fee as required under Section 20 of this Act.

This subsection (b) does not apply to any compter, computer monitor, or television that was purchased prior to January 1, 2010.

(c) By July 1, 2009, retailers shall report to each television manufacturer, by model, the number of televisions sold at retail to individuals in this State under each of the manufacturer's brands during the 6-month period from October 1, 2008 through March 31, 2009.

(d) By August 1, 2010, retailers shall report to each television manufacturer, by model, the number of televisions sold at retail to individuals in this State under each of the manufacturer's brands between January 1, 2010 and June 30, 2010.

(e) No later than February 15 of each program year, retailers shall report to each television manufacturer, by model, the number of televisions sold at retail to individuals in this State under each of the manufacturer's brands during the previous program year.

Section 50. Recycler and refurbisher registration.

(a) Prior to January 1 of each program year, each recycler and refurbisher must register with the Agency and submit a registration fee pursuant to subsection (b) for that program year. Registration must be on forms and in a format prescribed by the Agency and shall include, but not be limited to, the address of each location where the recycler or refurbisher manages CEDs or EEDs and identification of each location at which the recycler or refurbisher accepts CEDs or EEDs from a residence.

(b) The registration fee for program year 2010 is $2,000. For program years 2011 and thereafter, the registration fee is increased each year by an inflation factor determined by the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its Survey of Current Business. The inflation factor must be calculated each year by dividing the latest published annual Implicit Price Deflator for Gross National Product by the annual Implicit Price Deflator for Gross National Product for the previous year. The inflation factor must be rounded to the nearest 1/100th, and the resulting registration fee must be rounded to the nearest whole dollar. No later than October 1 of each program year, the Agency shall post on its website the registration fee for the next program year.

(c) No person may act as a recycler or a refurbisher of CEDs for a manufacturer obligated to meet goals under this Act unless the recycler or refurbisher is registered and has paid the registration fee as required under this Section.

(d) Recyclers and refurbishers must, at a minimum, comply with all of the following:

(1) Recyclers and refurbishers must comply with federal, State, and local laws and regulations, including federal and State minimum wage laws, specifically relevant to the handling,

processing, refurbishing and recycling of residential CEDs and must have proper authorization by all appropriate governing authorities to perform the handling, processing, refurbishment, and recycling.

(2) Recyclers and refurbishers must implement the appropriate measures to safeguard occupational and environmental health and safety, through the following:

(A) environmental health and safety training of personnel, including training with regard to material and equipment handling, worker exposure, controlling releases, and safety and emergency procedures;

(B) an up-to-date, written plan for the identification and management of hazardous materials; and

(C) an up-to-date, written plan for reporting and responding to exceptional pollutant releases, including emergencies such as accidents, spills, fires, and explosions.

(3) Recyclers and refurbishers must maintain (i) commercial general liability insurance or the equivalent corporate guarantee for accidents and other emergencies with limits of not less than $1,000,000 per occurrence and $1,000,000 aggregate and (ii) pollution legal liability insurance with limits not less than $1,000,000 per occurrence for companies engaged solely in the dismantling activities and $5,000,000 per occurrence for companies engaged in recycling.

(4) Recyclers and refurbishers must maintain on file documentation that demonstrates the completion of an environmental-health-and-safety audit completed and certified by a competent internal and external auditor annually. A competent auditor is an individual who, through professional training or work experience, is appropriately qualified to evaluate the environmental health and safety conditions, practices, and procedures of the facility. Documentation of auditors' qualifications must be available for inspection by Agency officials and third-party auditors.

(5) Recyclers and refurbishers must maintain on file proof of workers' compensation and employers' liability insurance.

(6) Recyclers and refurbishers must provide adequate assurance (such as bonds or corporate guarantee) to cover environmental and other costs of the closure of the recycler or refurbisher's facility, including cleanup of stockpiled equipment and materials.

(7) Recyclers and refurbishers must apply due-diligence principles to the selection of facilities to which components and materials (such as plastics, metals, and circuit boards) from CEDs and EEDs are sent for reuse and recycling.

(8) Recyclers and refurbishers must establish a documented environmental management system that is appropriate in level of detail and documentation to the scale and function of the facility, including documented regular self-audits or inspections of the recycler or refurbisher's environmental compliance at the facility.

(9) Recyclers and refurbishers must use the appropriate equipment for the proper processing of incoming materials as well as controlling environmental releases to the environment. The dismantling operations and storage of CED and EED components that contain hazardous substances must be conducted indoors and over impervious floors. Storage areas must be adequate to hold all processed and unprocessed inventory. When heat is used to soften solder and when CED and EED components are shredded, operations must be designed to control indoor and outdoor hazardous air emissions.

(10) Recyclers and refurbishers must establish a system for identifying and properly managing components (such as circuit boards, batteries, CRTs, and mercury phosphor lamps) that are removed from CEDs and EEDs during disassembly. Recyclers and refurbishers must properly manage all hazardous and other components requiring special handling from CEDs and EEDs consistent with federal, State, and local laws and regulations. Recyclers and refurbishers must provide visible tracking (such as hazardous waste manifests or bills of lading) of hazardous components and materials from the facility to the destination facilities and documentation (such as contracts) stating how the destination facility processes the materials received. No recycler or refurbisher may send, either directly or through intermediaries, hazardous wastes to solid waste (non-hazardous waste) landfills or to non-hazardous waste incinerators for disposal or energy recovery. For the purpose of these guidelines, smelting of hazardous wastes to recover metals for reuse in conformance with all applicable laws and regulations is not considered disposal or energy recovery.

(11) Recyclers and refurbishers must use a regularly implemented and documented monitoring and record keeping program that tracks inbound CED and EED material weights (total) and subsequent outbound weights (total to each destination), injury and illness rates, and compliance with applicable permit parameters including monitoring of effluents and emissions. Recyclers and refurbishers must maintain contracts or other documents, such as sales receipts, suitable to demonstrate: (i) the reasonable expectation that there is a downstream market or uses for designated

electronics (which may include recycling or reclamation processes such as smelting to recover metals for reuse); and (ii) that any residuals from recycling and or reclamation processes are properly handled and managed to maximize reuse and recycling of materials to the extent practical.

(12) Recyclers and refurbishers must comply with federal and international law and agreements regarding the export of used products or materials. In the case of exports of CEDs and EEDs, recyclers and refurbishers must comply with applicable requirements of the U.S. and of the import and transit countries and must maintain proper business records documenting its compliance. No recycler or refurbisher may establish or use intermediaries for the purpose of circumventing these U.S. import and transit country requirements.

(13) Recyclers and refurbishers that conduct transactions involving the transboundary shipment of used CEDs and EEDs shall use contracts (or the equivalent commercial arrangements) made in advance that detail the quantity and nature of the materials to be shipped. For the export of materials to a foreign country (directly or indirectly through downstream market contractors): (i) the shipment of intact televisions and computer monitors destined for reuse must include only whole products that are tested and certified as being in working order or requiring only minor repair (e.g. not requiring the replacement of circuit boards or CRTs), must be destined for reuse with respect to the original purpose, and the recipient must have verified a market for the sale or donation of such product for reuse; (ii) the shipments of CEDs and EEDs for material recovery must be prepared in a manner for recycling, including, without limitation, smelting where metals will be recovered, plastics recovery and glass-to-glass recycling; or (iii) the shipment of CEDs and EEDs are being exported to companies or facilities that are owned or controlled by the original equipment manufacturer.

(14) Recyclers and refurbishers must maintain the following export records for each shipment on file for a minimum of 3 years: (i) the facility name and the address to which shipment is exported; (ii) the shipment contents and volumes; (iii) the intended use of contents by the destination facility; (iv) any specification required by the destination facility in relation to shipment contents; (v) an assurance that all shipments for export, as applicable to the CED manufacturer, are legal and satisfy all applicable laws of the destination country.

(15) Recyclers and refurbishers must employ industry-accepted procedures for the destruction or sanitization of data on hard drives and other data storage devices. Acceptable guidelines for the destruction or sanitization of data are contained in the National Institute of Standards and Technology's Guidelines for Media Sanitation or those guidelines certified by the National Association for Information Destruction;

(16) No recycler or refurbisher may employ prison labor in any operation related to the collection, transportation, recycling, and refurbishment of CEDs and EEDs. No recycler or refurbisher may employ any third-party that uses or subcontracts for the use of prison labor.

Section 55. Collector responsibilities.

(a) No later than January 1 of each program year, collectors that collect or receive CEDs or EEDs for one or more manufacturers, recyclers, or refurbishers shall register with the Agency. Registration must be in the form and manner required by the Agency and must include, without limitation, the address of each location where CEDs or EEDs are received and the identification of each location at which the collector accepts CEDs or EEDs from a residence.

(b) Manufacturers, recyclers, refurbishers also acting as collectors shall so indicate on their registration under Section 30 or 50 and not register separately as collectors.

(c) No later than August 15, 2010, collectors must submit to the Agency, on forms and in a format prescribed by the Agency, a report for the period from January 1, 2010 through June 30, 2010 that contains the following information: the total weight of computers, the total weight of computer monitors, the total weight of televisions, and the total weight of EEDs collected or received for each manufacturer.

(d) No later than May 1 of each program year, collectors must submit to the Agency, on forms and in a format prescribed by the Agency, a report that contains the following information for the previous program year:

(1) the total weight of computers, the total weight of computer monitors, the total weight of televisions, and the total weight of EEDs collected or received for each manufacturer during the program year.

(2) a list of each recycler and refurbisher that received CEDs and EEDs from the collector and the total weight each recycler and refurbisher received.

(3) the address of each collector's facility where the CEDs and EEDs were collected or received. Each facility address must include the county in which the facility is located.

(e) Collectors may accept no more than 10 CEDs or EEDs at one time from individual members of the public and, when scheduling collection events, shall provide no fewer than 30 days' notice to the county waste agency of those events.

Section 60. Collection strategy for underserved counties.

(a) For program year 2010, all counties in this State except the following are considered underserved: Champaign, Clay, Clinton, Cook, DuPage, Fulton, Hancock, Henry, Jackson, Kane, Kendall, Knox, Lake, Livingston, Macoupin, McDonough, McHenry, McLean, Mercer, Peoria, Rock Island, St. Clair, Sangamon, Shuyler, Stevenson, Warren, Will, Williamson, and Winnebago.

(b) For program years 2011 and later, underserved counties shall be counties in this State that, during the program year 2 years prior, were not served by a minimum of one collection site that (i) accepted all types of CEDs and EEDs and (ii) was open for a minimum of 8 hours on at least one day per month of that program year. For the purposes of this subsection (b), 2009 shall be considered to have been a program year, and for the program year 2012 the determination of whether a county is underserved shall be based on the criteria of this subsection (b) instead of the county's inclusion in the list set forth in subsection (a) of this Section.

Section 65. State government procurement.

(a) The Department of Central Management Services shall ensure that all bid specifications and contracts for the purchase or lease of desktop computers, laptop or notebook computers, and computer monitors by State agencies under a statewide master contract require that the electronic products have a Bronze performance tier or higher registration under the Electronic Product Environmental Assessment Tool ("EPEAT") operated by the Green Electronics Council.

(b) The Department of Central Management Services shall ensure that bid specifications and contracts for the purchase or lease of televisions by State agencies under a statewide master contract require that the televisions have a Bronze performance tier or higher registration under EPEAT if the Department determines that there are an adequate number of the televisions registered under EPEAT to provide a sufficiently competitive-bidding environment.

(c) This Section applies to bid specifications issued, and contracts entered into, on or after January 1, 2010.

Section 70. Relation to federal law. Following the adoption of a federal law or regulation that establishes mandated recycling goals for CEDs that equal or exceed the goals set forth in this Act, the Agency shall notify the General Assembly of the federal law or regulation and recommend the repeal of this Act.

Section 75. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 80. Penalties.

(a) Except as otherwise provided in this Act, any person who violates any provision of this Act or fails to perform any duty under this Act is liable for a civil penalty not to exceed $1,000 for the violation and an additional civil penalty not to exceed $1,000 for each day the violation continues and is liable for a civil penalty not to exceed $5,000 for a second or subsequent violation and an additional civil penalty not to exceed $1,000 for each day the second or subsequent violation continues.

(b) A manufacturer that is not registered with the Agency as required under this Act, or that has not paid the registration fee as required under this Act, is liable for a civil penalty not to exceed $10,000 for the violation and an additional civil penalty not to exceed $10,000 for each day the violation continues.

(c) A manufacturer in violation of subsection (d) of Section 30 of this Act in program year 2012 or thereafter is liable for a civil penalty equal to the following:

(1) if the total weight of CEDs and EEDs recycled or processed for reuse by the manufacturer equals or exceeds 90% of the manufacturer's individual recycling or reuse goal set forth in Section 19 of this Act, the penalty is equal to the product of: (i) $0.60 per pound; multiplied by (ii) the difference between the manufacturer's individual recycling or reuse goal and the total weight of CEDs and EEDs recycled or processed for reuse by the manufacturer during the program year;

(2) if the total weight of CEDs and EEDs recycled or processed for reuse by the manufacturer equals or exceeds 80% of the manufacturer's individual recycling or reuse goal set forth in Section 19 of this Act, but does not equal or exceed 90% of the goal, the penalty is equal to the

product of: (i) $0.70 per pound; multiplied by (ii) the difference between the manufacturer's individual recycling or reuse goal and the total weight of CEDs and EEDs recycled or processed for reuse by the manufacturer during the program year;

(3) if the total weight of CEDs and EEDs recycled or processed for reuse by the manufacturer is less than 80% of the manufacturer's individual recycling or reuse goal set forth in Section 19 of this Act, the penalty is equal to the product of: (i) $0.80 per pound; multiplied by (ii) the difference between the manufacturer's individual recycling or reuse goal and the total weight of CEDs and EEDs recycled or processed for reuse by the manufacturer during the program year.

(d) Beginning January 1, 2010, a manufacturer in violation of subsection (e), (h), (i), (j), (k), or (l) of Section 30 is liable for a civil penalty not to exceed $5,000 for the violation and an additional civil penalty not to exceed $10,000 for each day the violation continues.

(e) Any person in violation of Section 50 of this Act is liable for a civil penalty not to exceed $5,000 for the violation and an additional civil penalty not to exceed $10,000 for each day the violation continues.

(f) A knowing violation of subsections (a) and (c) of Section 95 of this Act is a petty offense punishable by a fine of $100.

(g) The penalties provided for in this Act may be recovered in a civil action brought by the Attorney General on behalf of the Agency and the People of the State of Illinois, or by the State's Attorney of the county in which the violation occurred. Without limiting any other authority that may exist for the awarding of attorneys' fees and costs, a court of competent jurisdiction may award costs and reasonable attorneys' fees, including the reasonable costs of expert witnesses and consultants, to the Attorney General or the State's Attorney in a case where he or she has prevailed against a person who has committed a willful, knowing, or repeated violation of this Act. Any moneys collected under this Section in which the Attorney General has prevailed shall be deposited into the Electronic Recycling Fund, established under this Act. Any moneys collected under this Section in an action in which the State's Attorney has prevailed shall be retained by the county in which he or she serves.

(h) The Attorney General or the State's Attorney of the county in which the violation occurred may, at the request of the Agency or on his or her own motion, institute a civil action for an injunction, prohibitory or mandatory, to retrain violations of this Act or to require such actions as may be necessary to address violations of this Act.

(i) The penalties and injunctions provided in this Act are in addition to any penalties, injunctions, or other relief provided under any other law. Nothing in this Act bars a cause of action by the State for any other penalty, injunction, or relief provided by any other law.

Section 85. Electronics Recycling Fund. The Electronics Recycling Fund is created as a special fund in the State treasury. The Agency shall deposit all registration fees received under this Act into the Fund. All amounts held in the Fund shall be invested at interest by the State Treasurer. All income earned from the investments shall be deposited into the Electronics Recycling Fund no less frequently than quarterly. Pursuant to appropriation, all moneys in the Electronics Recycling Fund may be used by the Agency for its administration of this Act. Any moneys appropriated from the Electronics Recycling Fund, but not obligated, shall revert to the Fund.

Section 90. Relation to other State laws. Nothing in this Act affects the validity or application of any other law of this State, or regulations adopted thereunder.

Section 95. Landfill ban.

(a) Beginning January 1, 2012, no person may knowingly cause or allow the mixing of a CED, or any other computer, computer monitor, or television with municipal waste that is intended for disposal at a landfill.

(b) Beginning January 1, 2012, no person may knowingly cause or allow the disposal of a CED or any other computer, computer monitor, or television in a sanitary landfill.

(c) Beginning January 1, 2012, no person may knowingly cause or allow the mixing of a CED, or any other computer, computer monitor, or television with waste that is intended for disposal by burning or incineration.

(d) Beginning January 1, 2012, no person may knowingly cause or allow the burning or incineration of a CED, or any other computer, computer monitor, or television.

Section 900. The State Finance Act is amended by adding Section 5.708 as follows:

(30 ILCS 105/5.708 new)
Sec. 5.708. The Electronics Recycling Fund.

Section 999. Effective date. This Act takes effect upon becoming law.".

Senator Garrett offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2313

AMENDMENT NO. _2_. Amend Senate Bill 2313, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Electronic Products Recycling and Reuse Act.

Section 5. Findings and purpose.
(a) The General Assembly finds all of the following:
(1) Electronic products are the fastest growing portion of the solid waste stream. In 2005, 2,600,000 tons of electronic products became obsolete yet only 13% of those products were recycled.
(2) Many electronic products contain lead, mercury, cadmium, hexavalent chromium, and other materials that pose environmental and health risks that must be managed.
(3) Many obsolete electronic products can be recycled or refurbished for reuse and then returned to the economic mainstream in the form of raw materials or products.
(4) Electronic products contain metals, plastics, and leaded glass that have resale value. The reuse of these components conserves natural resources and energy, and the reuse also reduces air and water pollution and greenhouse gas emissions.
(5) A management is necessary to place the reuse and recycling of obsolete residential electronic products as the preferred management strategy over incineration and landfill disposal.
(6) The Illinois Recycling Economic Information Study of 2001 estimates that the total economic impact of establishing statewide recycling and reuse programs for residential electronic products may result in the creation of nearly 4,000 new jobs and $740 million in annual receipts.
(7) The State-appointed Computer Equipment Disposal and Recycling Commission issued a final report in May 2006 recommending legislative, regulatory, or other actions to properly address the recycling and reuse of obsolete residential electronic products.
(b) The purpose of this Act is to set forth procedures by which the recycling and processing for reuse of covered electronic devices will be accomplished in Illinois.

Section 10. Definitions. As used in this Act:
"Agency" means the Environmental Protection Agency.
"Cathode-ray tube" means a vacuum tube or picture tube used to convert an electronic signal into a visual image, such as a television or computer monitor.
"Collector" means a person who receives covered electronic devices or eligible electronic devices directly from a residence for recycling or processing for reuse. "Collector" includes, but is not limited to, manufacturers, recyclers, and refurbishers who receive CEDs or EEDs directly from the public.
"Computer", often referred to as a "personal computer" or "PC", means a desktop or notebook computer as further defined below and used only in a residence, but does not mean an automated typewriter, electronic printer, mobile telephone, portable hand-held calculator, portable digital assistant (PDA), MP3 player, or other similar device. "Computer" does not include computer peripherals, commonly known as cables, mouse, or keyboard. "Computer" is further defined as either:
(1) "Desktop computer", which means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions for general purpose needs that are met through interaction with a number of software programs contained therein, and that is not designed to exclusively perform a specific type of logical, arithmetic, or storage function or other limited or specialized application. Human interface with a desktop computer is achieved through a stand-alone keyboard, stand-alone monitor, or other display unit, and a stand-alone mouse or other pointing device, and is designed for a single user. A desktop computer has a main unit that is intended to be persistently located in a single location, often on a desk or on the floor. A desktop computer is not designed for portability and generally utilizes an external monitor, keyboard, and mouse with an external or internal power supply for a power source. Desktop computer

does not include an automated typewriter or typesetter; or

(2) "Notebook computer", which means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions for general purpose needs that are met through interaction with a number of software programs contained therein, and that is not designed to exclusively perform a specific type of logical, arithmetic, or storage function or other limited or specialized application. Human interface with a notebook computer is achieved through a keyboard, video display greater than 4 inches in size, and mouse or other pointing device, all of which are contained within the construction of the unit that comprises the notebook computer; supplemental stand-alone interface devices typically can also be attached to the notebook computer. Notebook computers can use external, internal, or batteries for a power source. Notebook computer does not include a portable hand-held calculator, or a portable digital assistant or similar specialized device. A notebook computer has an incorporated video display greater than 4 inches in size and can be carried as one unit by an individual. A notebook computer is sometimes referred to as a laptop computer.

"Computer monitor" means an electronic device that is a cathode-ray tube or flat panel display primarily intended to display information from a computer and is used only in a residence.

"Covered electronic device" or "CED" means any computer, computer monitor, television, or printer that is taken out of service from a residence in this State regardless of purchase location. "Covered electronic device" does not include any of the following:

(1) an electronic device that is a part of a motor vehicle or any component part of a motor vehicle assembled by or for a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;

(2) an electronic device that is functionally or physically part of a larger piece of equipment or that is taken out of service from an industrial, commercial (including retail), library checkout, traffic control, kiosk, security (other than household security), governmental, agricultural, or medical setting, including but not limited to diagnostic, monitoring, or control equipment; or

(3) an electronic device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, water pump, sump pump, or air purifier.

To the extent allowed under federal and State laws and regulations, a CED that is being collected, recycled, or processed for reuse is not considered to be hazardous waste, household waste, solid waste, or special waste.

"Developmentally disabled" means having a severe disability, as defined by the Office of Rehabilitation Services of the Illinois Department of Human Services, that can be expected to result in death or that has lasted, or is expected to last, at least 12 months and that prevents working at a "substantial gainful activity" level.

"Dismantling" means the demanufacturing and shredding of a CED.

"Eligible electronic device" or "EED" means any of the following electronic products taken out of service from a residence in this State regardless of purchase location: mobile telephone; computer cable, mouse, or keyboard; stand-alone facsimile machine; MP3 player; portable digital assistant (PDA); video game console, video cassette recorder/player, digital video disk player, or similar video device; zip drive; or scanner. To the extent allowed under federal and state laws and regulations, an EED that is being collected, recycled, or processed for reuse is not considered to be hazardous waste, household waste, solid waste, or special waste.

"Low income children and families" mean those children and families that are subject to the most recent version of the United States Department of Health and Human Services Federal Poverty Guidelines.

"Manufacturer" means a person, or a successor in interest to a person, under whose brand or label a CED is or was sold at retail. For CEDs sold at retail under a brand or label that is licensed from a person who is a mere brand owner and who does not sell or produce the CED, the person who produced the CED or his or her successor in interest is the manufacturer. For CEDs sold that were at retail under the brand or label of both the retail seller and the person that produced the CED, the person that produced the CED, or his or her successor in interest, is the manufacturer. A retail seller of CEDs may elect to be the manufacturer of one or more CEDs if the retail seller provides written notice to the Agency that it is accepting responsibility as the manufacturer of the CED under this Act and identifies the CEDs for which it is electing to be the manufacturer.

"Orphan CEDs" means those CEDs that are returned for recycling, or processing for reuse, whose manufacturer cannot be identified, or whose manufacturer is no longer conducting business and has no successor in interest.

"Person" means any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other legal entity, or a legal representative, agent, or assign of that entity.

"Printer" means desktop printers, multifunction printer copiers, and printer/fax combinations taken out of service from a residence that are designed to reside on a work surface, and include various print technologies, including without limitation laser and LED (electrographic), ink jet, dot matrix, thermal, and digital sublimation, and "multi-function" or "all-in-one" devices that perform different tasks, including without limitation copying, scanning, faxing, and printing. Printers do not include floor-standing printers, printers with optional floor stand, point of sale (POS) receipt printers, household printers such as a calculator with printing capabilities or label makers, or non-stand-alone printers that are embedded into products that are not CEDs.

"Processing for reuse" means any method, technique, or process by which CEDs or EEDs that would otherwise be disposed of or discarded are instead separated, processed, and returned to their original intended purposes or to other useful purposes as electronic devices.

"Program Year" means a calendar year. The first program year is 2010.

"Recycler" means a person who engages in the recycling of CEDs or EEDs, but does not include telecommunications carriers, telecommunications manufacturers, or commercial mobile service providers with an existing recycling program.

"Recycling" means any method, technique, or process by which CEDs or EEDs that would otherwise be disposed of or discarded are instead collected, separated, or processed and are returned to the economic mainstream in the form of raw materials or products. "Recycling" includes the collection, transportation, dismantling, and shredding of the CEDs or EEDs.

"Refurbisher" means any person who processes CEDs or EEDs for reuse, but does not include telecommunications carriers, telecommunications manufacturers, or commercial mobile service providers with an existing recycling program.

"Residence" means a dwelling place or home in which one or more individuals live.

"Retailer" means a person who sells, rents, or leases, through sales outlets, catalogues, or the Internet, computers, computer monitors, or televisions at retail to individuals in this State. For purposes of this Act, sales to individuals at retail are considered to be sales for residential use. "Retailer" includes, but is not limited to, manufacturers who sell computers, computer monitors, or televisions at retail directly to individuals in this State.

"Sale" means any retail transfer of title for consideration of title including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet or any other similar electronic means but does not mean financing or leasing.

"Television" means an electronic device (i) containing a cathode-ray tube or flat panel screen the size of which is greater than 4 inches when measured diagonally, (ii) that is intended to receive video programming via broadcast, cable, or satellite transmission or to receive video from surveillance or other similar cameras, and (iii) that is used only in a residence.

Section 15. Statewide recycling and reuse goals for all covered electronic devices.

(a) For program year 2010, the statewide recycling or reuse goal for all CEDs is the product of: (i) the latest population estimate for the State, as published on the U.S. Census Bureau's website on January 1, 2010; multiplied by (ii) 2.5 pounds per capita.

(b) For program year 2011, the statewide recycling or reuse goal for all CEDs is the product of: (i) the 2010 base weight; multiplied by (ii) the 2010 goal attainment percentage.

For the purposes of this subsection (b):

The "2010 base weight" means the greater of: (i) twice the total weight of all CEDs that were recycled or processed for reuse between January 1, 2010 and June 30, 2010 as reported to the Agency under subsection (i) or (j) of Section 30; or (ii) twice the total weight of all CEDs that were recycled or processed for reuse between January 1, 2010 and June 30, 2010 as reported to the Agency under subsection (c) of Section 55.

The "2010 goal attainment percentage" means:

(1) 90% if the 2010 base weight is less than 90% of the statewide recycling or reuse goal for program year 2010;

(2) 95% if the 2010 base weight is 90% or greater, but does not exceed 95%, of the statewide recycling or reuse goal for program year 2010;

(3) 100% if the 2010 base weight is 95% or greater, but does not exceed 105%, of the statewide recycling or reuse goal for program year 2010;

(4) 105% if the 2010 base weight is 105% or greater, but does not exceed 110%, of the

statewide recycling or reuse goal for program year 2010; and

(5) 110% if the 2010 base weight is 110% or greater of the statewide recycling or reuse goal for program year 2010.

(c) For program years 2012 and thereafter, the statewide recycling or reuse goal for all CEDs is the product of: (i) the base weight; multiplied by (ii) the goal attainment percentage.

For the purposes of this subsection (c):

The "base weight" means the greater of: (i) the total weight of all CEDs recycled or processed for reuse during the previous program year as reported to the Agency under subsection (k) or (l) of Section 30; or (ii) the total weight of all CEDs recycled or processed for reuse during the previous program year as reported to the Agency under subsection (d) of Section 55.

The "goal attainment percentage" means:

(1) 90% if the base weight is less than 90% of the statewide recycling or reuse goal for the previous program year;

(2) 95% if the base weight is 90% or greater, but does not exceed 95%, of the statewide recycling or reuse goal for the previous program year;

(3) 100% if the base weight is 95% or greater, but does not exceed 105%, of the statewide recycling or reuse goal for the previous program year;

(4) 105% if the base weight is 105% or greater, but does not exceed 110%, of the statewide recycling or reuse goal for the previous program year; and

(5) 110% if the base weight is 110% or greater of the statewide recycling or reuse goal for the previous program year.

Section 16. Statewide recycling or reuse goals for all television manufacturers.

(a) For program year 2010, the statewide recycling or reuse goal for television manufacturers is 53% of the statewide goal for all CEDs under subsection (a) of Section 15.

(b) For program year 2011, the statewide recycling or reuse goal for television manufacturers is the product of: (i) an amount equal to the total weight of televisions that were recycled or processed for reuse between January 1, 2010 and June 30, 2010, as reported under subsection (i) of Section 30, divided by the total weight of all CEDs that were recycled or processed for reuse between January 1, 2010 and June 30, 2010, as reported under subsection (i) of Section 30; multiplied by (ii) the statewide recycling or reuse goal for all CEDs under subsection (b) of Section 15.

(c) For program years 2012 and thereafter, the statewide recycling or reuse goal for television manufacturers is the product of: (i) an amount equal to the total weight of televisions recycled or processed for reuse during the previous program year, as reported under subsection (d) of Section 20, divided by the total weight of all CEDs recycled or processed for reuse, as reported under subsection (d) of Section 20; multiplied by (ii) the statewide recycling or reuse goal for all CEDs under subsection (c) of Section 15.

Section 17. Statewide recycling or reuse goals for all computer, computer monitor, and printer manufacturers.

(a) For program year 2010, the statewide recycling or reuse goal for computer, computer monitor, and printer manufacturers is 47% of the statewide goal for all CEDs under subsection (a) of Section 15.

(b) For program year 2011, the statewide recycling or reuse goal for computer, computer monitor, and printer manufacturers is the product of: (i) an amount equal to the total weight of computers, computer monitors, and printers that were recycled or processed for reuse between January 1, 2010 and June 30, 2010, as reported under subsection (j) of Section 30, divided by the total weight of all CEDs that were recycled or processed for reuse between January 1, 2010 and June 30, 2010, as reported under subsection (j) of Section 30; multiplied by (ii) statewide recycling or reuse goal for all CEDs under subsection (b) of Section 15.

(c) For program years 2012 and thereafter, the statewide recycling or reuse goal for computer, computer monitor, and printer manufacturers is the product of: (i) an amount equal to the total weight of computers, computer monitors, and printers recycled or processed for reuse during the previous program year, as reported under subsection (d) of Section 20, divided by the total weight of all CEDs recycled or processed for reuse, as reported under subsection (d) of Section 20; multiplied by (ii) statewide recycling or reuse goal for all CEDs under subsection (c) of Section 15.

Section 18. Determination of market shares and return shares.

(a) The recycling or reuse goal for each television manufacturer is based upon that manufacturer's

market share. The market share for each television manufacturer is the following:

(1) For program year 2010, the quotient of: (i) the total weight of the manufacturer's televisions that were sold at retail in this State to individuals between October 1, 2008 and March 31, 2009, as reported under subsection (h) of Section 30; divided by (ii) the total weight of all televisions that were sold at retail in this State to individuals between October 1, 2008 and March 31, 2009, as reported under subsection (h) of Section 30.

(2) For program year 2011, the quotient of: (i) the total weight of the manufacturer's televisions that were sold at retail in this State to individuals between January 1, 2010 and June 30, 2010, as reported under subsection (i) of Section 30; divided by (ii) the total weight of all televisions that were sold at retail in this State to individuals between January 1, 2010 and June 30, 2010, as reported under subsection (i) of Section 30.

(3) For program years 2012 and thereafter, the quotient of: (i) the total weight of the manufacturer's televisions that were sold at retail in this State to individuals during the previous program year, as reported under subsection (k) of Section 30; divided by (ii) the total weight of all televisions sold at retail in this State to individuals during the previous program year, as reported under subsection (k) of Section 30.

(b) The recycling or reuse goals for each manufacturer of computers, computer monitors, or printers is based upon that manufacturer's return share. The return share for each manufacturer of computers or computer monitors is the following:

(1) For program year 2010, the return share for each manufacturer shall be determined using the information the Florida Department of Environmental Protection used to create its October 5, 2007, report entitled "Quantifying Electronic Product Brand Market Share as a Metric for Apportioning Manufacturer Share of Recycling System Costs". Using the same information that was used to generate Tables 6 and 9 of the report, a manufacturer's return share shall be equal to the quotient of: (i) the sum of the number of the manufacturer's computers received for recycling plus the number of the manufacturer's computer monitors received for recycling, plus the number of the manufacturer's printers received for recycling, divided by (ii) the sum of the total number of computers received for recycling plus the total number of computer monitors received for recycling, plus the sum of the total number of printers received for recycling.

(2) For program year 2011, the quotient of: (i) the total weight of the manufacturer's computers, computer monitors, and printers that were taken out of service from a residence in this State and recycled or processed for reuse between January 1, 2010 and June 30, 2010, as reported under subsection (j) of Section 30; divided by (ii) the total weight of all computers, computer monitors, and printers that were taken out of service from a residence in this State and recycled or processed for reuse between January 1, 2010 and June 30, 2010, as reported under subsection (j) of Section 30.

(3) For program years 2012 and thereafter, the quotient of: (i) the total weight of the manufacturer's computers, computer monitors, and printers that were taken out of service from a residence in this State and recycled or processed for reuse during the previous program year, as reported under subsection (l) of Section 30; divided by (ii) the total weight of all computers, computer monitors, and printers that were taken out of service from a residence in this State and recycled or processed for reuse during the previous program year, as reported under subsection (l) of Section 30.

Section 19. Recycling or reuse goals for individual manufacturers.

(a) The individual recycling and reuse goal for each television manufacturer is the product of (i) the statewide goal for the recycling and reuse for all television manufacturers under Section 16; multiplied by (ii) that manufacturer's market share under subsection (a) of Section 18.

(b) The individual recycling and reuse goal for each manufacturer of computers, computer monitors, or printers is the product of (i) the statewide goal for the recycling and reuse for all all computer, computer monitor, and printer manufacturers under Section 17; multiplied by (ii) that manufacturer's return share under subsection (b) of Section 18.

Section 20. Agency responsibilities.

(a) The Agency has the authority to monitor compliance with this Act and to refer violations of this Act to the Attorney General.

(b) No later than October 1 of each program year, the Agency shall post on its website a list of underserved counties in the State for the next program year. The list of underserved counties for the first program year is set forth in subsection (a) of Section 60.

(c) By July 1, 2009, the Agency shall implement a county and municipal government education campaign to inform those entities about this Act and the implications on solid waste collection in their localities.

(d) By July 1, 2011 for the first program year, and by April 1 for all subsequent program years, the Agency shall report to the Governor and to the General Assembly annually on the previous program year's performance. The report must be posted on the Agency's website. The report must include, but not be limited to, the following:

(1) the total overall weight of CEDs, as well as the sub-total weight of computers, the sub-total weight of computer monitors, the sub-total weight of printers, the sub-total weight of televisions, and the total weight of EEDs that were recycled or processed for reuse in the State during the program year, as reported by manufacturers and collectors under Sections 30 and 55;

(2) a listing of all collection sites as set forth under subsection (e) of Section 55;

(3) a statement of the manufacturers' progress toward achieving the statewide recycling goal set forth in Section 15 (calculated from the manufacturer reports pursuant to Section 30 and the collector reports pursuant to Section 55) and any identified State actions that may help expand collection opportunities to help manufacturers achieve the statewide recycling goal;

(4) a listing of any manufacturers whom the Agency referred to the Attorney General's Office for enforcement as a result of a violation of this Act;

(5) a discussion of the Agency's education and outreach activities; and

(6) a discussion of the penalties, if any, incurred by manufacturers for failure to achieve recycling goals, and a recommendation to the General Assembly of any necessary or appropriate changes to the statewide recycling goals, manufacturer's recycling goals, or penalty provisions included in this Act.

(e) The Agency shall post on its website a list of registered collectors to whom Illinois residents can bring CEDs and EEDs for recycling or processing for reuse, including links to the collectors' websites and the collectors' phone numbers.

(f) In program years 2012, 2013, and 2014, and at its discretion thereafter, the Agency shall convene and host an Electronic Products Recycling Conference. The Agency may host the conferences alone or with other public entities or with organizations associated with electronic products recycling.

(g) No later than October 1 of each program year, the Agency must post on its website the following information for the next program year:

(1) The overall statewide recycling and reuse goal for CEDs, as well as the sub-goals for televisions, and computers, computer monitors, and printers as set forth in Section 15.

(2) The market shares of television manufacturers and the return shares of computer, computer monitor, and printer manufacturers, as set forth in Section 18, and

(3) The individual recycling and reuse goals for each manufacturer, as set forth in Section 19.

(h) By April 1, 2011, and by April 1 of all subsequent years, the Agency shall recognize those manufacturers that have met or exceeded their recycling or reuse goals for the previous program year. Such recognition shall be the awarding to all such manufacturers of an Electronic Industry Recycling Award, which shall be recognized on the Agency website and other media as appropriate.

(i) By April 1, 2012, the Agency shall solicit written comments regarding all aspects of the program codified in this Act, for the purpose of determining if the program requires any modifications that would take effect as of January 1, 2013.

(1) Issues to be reviewed by the Agency are, but not limited to, the following:

(A) Sufficiency of the annual statewide recycling goals.

(B) Fairness of the formulas used to determine individual manufacturer goals.

(C) Adequacy of, or the need for, continuation of the credits outlined in Section 30(d)(1) through (3).

(D) Any temporary recissions of county landfill bans granted by the Illinois Pollution Control Board pursuant to Section 95(e).

(E) Adequacy of, or the need for, the penalties listed in Section 80 of this Act, which are scheduled to take effect on January 1, 2013.

(F) Adequacy of the collection systems that have been implemented as a result of this Act, with a particular focus on promoting the most cost-effective and convenient collection system possible for Illinois residents.

(2) By June 1, 2012, the Agency shall complete its review of the written comments received, as well as its own reports on program years 2010 and 2011, and hold a public hearing to

present its findings and solicit additional comments.

(3) The Agency's final report, which shall be issued no later than September 1, 2012, shall be submitted to the Governor and the General Assembly and shall include specific recommendations for any necessary or appropriate modifications to the program.

Section 30. Manufacturer responsibilities.

(a) Prior to April 1, 2009 for the first program year, and by October 1 for program year 2011 and thereafter, manufacturers whose computers, computer monitors, printers, or televisions are sold in this State must register with the Agency. The registration must be submitted in the form and manner required by the Agency. The registration must include, without limitation, all of the following:

(1) a list of all of the manufacturer's brands of computers, computer monitors, printers, or televisions to be offered for sale in the next program year;

(2) for manufacturers of both televisions and computers, computer monitors, or printers, an identification of whether, for residential use, (i) televisions or (ii) computers, computer monitors, and printers, represent the larger number of units sold for the manufacturer; and

(3) a statement disclosing whether:

(A) any computer, computer monitor, printer, or television sold in this State exceeds the maximum concentration values established for lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBBs), and polybrominated diphenyl ethers (PBDEEs) under the RoHS (restricting the use of certain hazardous substances in electrical and electronic equipment) Directive 2002/95/EC of the European Parliament and Council and any amendments thereto and, if so, an identification of that computer, computer monitor, or television; or

(B) the manufacturer has received an exemption from one or more of those maximum concentration values under the RoHS Directive that has been approved and published by the European Commission.

If, during the program year, a manufacturer's computer, computer monitor, printer, or television is sold or offered for sale under a new brand that is not listed in the manufacturer's registration, then, within 30 days after the first sale or offer for sale under the new brand, the manufacturer must amend its registration to add the new brand.

(b) Prior to July 1, 2009 for the first program year, and by the November 1 preceding program years 2011 and later, all manufacturers whose computers, computer monitors, or televisions are sold in the State shall submit to the Agency, at an address prescribed by the Agency, the registration fee for the next program year. The registration fee for program year 2010 is $5,000.

For program years 2011 and later, the registration fee is increased each year by an inflation factor determined by the annual Implicit Price Deflator for Gross National Product, as published by the U.S. Department of Commerce in its Survey of Current Business. The inflation factor must be calculated each year by dividing the latest published annual Implicit Price Deflator for Gross National Product by the annual Implicit Price Deflator for Gross National Product for the previous year. The inflation factor must be rounded to the nearest 1/100th, and the resulting registration fee must be rounded to the nearest whole dollar. No later than October 1 of each program year, the Agency shall post on its website the registration fee for the next program year.

(c) A manufacturer whose computers, computer monitors, printers, or televisions are first sold or offered for sale in this State on or after January 1 of a program year must register with the Agency in accordance with subsection (a) of this Section and submit the registration fee required under subsection (b) of this Section prior to the manufacturer's computers, computer monitors, printers, or televisions being sold or offered for sale.

(d) Each manufacturer shall recycle or process for reuse CEDs and EEDs whose total weight equals or exceeds the manufacturer's individual recycling and reuse goal set forth in Section 19 of this Act. Individual consumers may not be charged an end-of-life fee when bringing their CEDs and EEDs to permanent or temporary collection locations, unless a financial incentive of equal or greater value, such as a coupon, is provided. Collectors may charge a fee for premium services such as curbside collection, home pick-up, or a similar method of collection.

When determining whether a manufacturer has met or exceeded its individual recycling and reuse goal set forth in Section 19 of this Act, all of the following adjustments must be made:

(1) The total weight of CEDs processed for reuse by the manufacturer, its recyclers, or its refurbishers is doubled.

(2) The total weight of CEDs is tripled if they are donated for reuse by the manufacturer to a primary or secondary public education institution or to a not-for-profit entity that is

established under Section 501(c)(3) of the Internal Revenue Code of 1986 and whose principal mission is to assist low-income children or families or to assist the developmentally disabled in Illinois. This subsection applies only to CEDs for which the manufacturer has received a written confirmation that the recipient has accepted the donation. Copies of all written confirmations must be submitted in the annual report required under Section 30.

(3) The total weight of CEDs collected by manufacturers free of charge in underserved counties is doubled. This subsection applies only to CEDs that are documented by collectors as being collected or received free of charge in underserved counties. This documentation must include, without limitation, the date and location of collection or receipt, the weight of the CEDs collected or received, and an acknowledgement by the collector that the CEDs were collected or received free of charge. Copies of the documentation must be submitted in the annual report required under subsection (h), (i), (j), (k), or (l) of Section 30.

(e) Manufacturers of computers, computer monitors, or printers, either individually or collectively, shall hire an independent third-party auditor to perform statistically significant return share samples of CEDs received by recyclers and refurbishers for recycling or processing for reuse. Each third-party auditor shall perform a return share sample of CEDs for at least one 8-hour period, once a quarter during the program year at the facility of each registered recycler and refurbisher under contract with the manufacturer or group of manufacturers that has hired the auditor. The audit shall contain the following data:

(1) the number and weight of CEDs, sorted by brand name and product type, including a category for orphan CEDs;

(2) the total weight of the sample by product type;

(3) the date, location, and time of the sampling;

(4) the name or names of the manufacturer for whom the recycler is performing activities under this Act; and

(5) a certification by the third-party auditor that the sampling is statistically significant and, if not, an explanation as to what occurred to render the sampling insignificant.

The manufacturer shall notify the Agency 30 days prior to the third-party auditor's return share sampling by providing the Agency with the time and date on which the third-party auditor will perform the return share sample. The Agency may, at its discretion, be present at any sampling event and may audit the methodology and the results of the third-party auditor.

No less than 30 days after the close of each calendar quarter, the manufacturer shall submit to the Agency the results of the third-party samplings conducted during the quarter. The results shall be submitted in the form and manner required by the Agency.

(f) Manufacturers shall ensure that only recyclers and refurbishers that have registered with the Agency are used to meet the individual recycling and reuse goals set forth in this Act.

(g) Manufacturers shall ensure that the recyclers and refurbishers used to meet the individual recycling and reuse goals set forth in this Act shall, at a minimum, comply with the standards set forth under subsection (d) of Section 50 of this Act.

(h) By August 15, 2009, television manufacturers shall submit to the Agency, in the form and manner required by the Agency, a report that contains the total weight of televisions sold under each of the manufacturer's brands to individuals at retail in this State, as set forth in the reports to manufacturers by retailers under subsection (c) of Section 40.

(i) No later than September 1, 2010, television manufacturers must submit to the Agency, in the form and manner required by the Agency, a report for the period January 1, 2010 through June 30, 2010 that contains the following information:

(1) the total weight of televisions sold under each of the manufacturer's brands to individuals at retail in this State, as set forth in the reports submitted under subsection (d) of Section 40; and

(2) the total weight of computers, the total weight of computer monitors, the total weight of printers, the total weight of televisions, and the total weight of EEDs recycled or processed for reuse.

(j) By August 15, 2010, computer, computer monitor, and printer manufacturers shall submit to the Agency, on forms and in a format prescribed by the Agency, a report for the period January 1, 2010 through June 30, 2010 that contains the total weight of computers, the total weight of computer monitors, the total weight of printers, the total weight of televisions, and the total weight of EEDs, recycled or processed for reuse.

(k) No later than April 1 of program years 2011 and thereafter, television manufacturers shall submit to the Agency, in the form and manner required by the Agency, a report that contains the

following information for the previous program year:

(1) the total weight of televisions sold under each of the manufacturer's brands to individuals at retail in this State, as set forth in the reports submitted under subsection (e) of Section 40;

(2) the total weight of computers, the total weight of computer monitors, the total weight of printers, the total weight of televisions, and the total weight of EEDs recycled or processed for reuse;

(3) the identification of all weights that are adjusted under subsection (d) of this Section. For all weights adjusted under item (2) of subsection (d), the manufacturer must include copies of the written confirmation required under that subsection;

(4) a list of each recycler, refurbisher, and collector used by the manufacturer to fulfill the manufacturer's individual recycling and reuse goal set forth in Section 19 of this Act;

(5) a summary of the manufacturer's consumer education program required under subsection (m) of this Section.

(l) No later than April 1 of program years 2011 and thereafter, computer, computer monitor, and printer manufacturers shall submit to the Agency, on forms and in a format prescribed by the Agency, a report that contains the following information for the previous program year:

(1) the total weight of computers, the total weight of computer monitors, the total weight of printers, the total weight of televisions, and the total weight of EEDs recycled or processed for reuse;

(2) the identification of all weights that are adjusted under subsection (d) of this Section. For all weights adjusted under item (2) of subsection (d), the manufacturer must include copies of the written confirmation required under that subsection;

(3) a list of each recycler, refurbisher, and collector used by the manufacturer to fulfill the manufacturer's individual recycling and reuse goal set forth in subsection (c) of Section 15 of this Act; and

(4) a summary of the manufacturer's consumer education program required under subsection (m) of this Section.

(m) Manufacturers must develop and maintain a consumer education program that complements and corresponds to the primary retailer-driven campaign required under Section 40 of this Act. The education program shall promote the recycling of electronic products and proper end-of-life management of the products by consumers.

(n) Beginning January 1 2010, no manufacturer may sell a computer, computer monitor, printer, or television in this State unless the manufacturer is registered with the State as required under this Act, has paid the required registration fee, and is otherwise in compliance with the provisions of this Act.

(o) Beginning January 1, 2010, no manufacturer may sell a computer, computer monitor, printer, or television in this State unless the manufacturer's brand name is permanently affixed to, and is readily visible on, the computer, computer monitor, printer, or television.

Section 40. Retailer responsibilities.

(a) Retailers shall be a primary source of information about end-of-life options to residential consumers of computers, computer monitors, printers, and televisions. At the time of sale, the retailer shall provide each residential consumer with information from the Agency's website that provides information detailing where and how a consumer can recycle a CED or return a CED for reuse.

(b) Beginning January 1, 2010, no retailer may sell or offer for sale any computer, computer monitor, printer, or television in or for delivery into this State unless:

(1) the computer, computer monitor, printer, or television is labeled with a brand and the label is permanently affixed and readily visible; and

(2) the manufacturer is registered with the Agency and has paid the required registration fee as required under Section 20 of this Act.

This subsection (b) does not apply to any computer, computer monitor, printer, or television that was purchased prior to January 1, 2010.

(c) By July 1, 2009, retailers shall report to each television manufacturer, by model, the number of televisions sold at retail to individuals in this State under each of the manufacturer's brands during the 6-month period from October 1, 2008 through March 31, 2009.

(d) By August 1, 2010, retailers shall report to each television manufacturer, by model, the number of televisions sold at retail to individuals in this State under each of the manufacturer's brands between

January 1, 2010 and June 30, 2010.

(e) No later than February 15 of each program year, retailers shall report to each television manufacturer, by model, the number of televisions sold at retail to individuals in this State under each of the manufacturer's brands during the previous program year.

Section 50. Recycler and refurbisher registration.

(a) Prior to January 1 of each program year, each recycler and refurbisher must register with the Agency and submit a registration fee pursuant to subsection (b) for that program year. Registration must be on forms and in a format prescribed by the Agency and shall include, but not be limited to, the address of each location where the recycler or refurbisher manages CEDs or EEDs and identification of each location at which the recycler or refurbisher accepts CEDs or EEDs from a residence.

(b) The registration fee for program year 2010 is $2,000. For program years 2011 and thereafter, the registration fee is increased each year by an inflation factor determined by the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its Survey of Current Business. The inflation factor must be calculated each year by dividing the latest published annual Implicit Price Deflator for Gross National Product by the annual Implicit Price Deflator for Gross National Product for the previous year. The inflation factor must be rounded to the nearest 1/100th, and the resulting registration fee must be rounded to the nearest whole dollar. No later than October 1 of each program year, the Agency shall post on its website the registration fee for the next program year.

(c) No person may act as a recycler or a refurbisher of CEDs for a manufacturer obligated to meet goals under this Act unless the recycler or refurbisher is registered and has paid the registration fee as required under this Section.

(d) Recyclers and refurbishers must, at a minimum, comply with all of the following:

(1) Recyclers and refurbishers must comply with federal, State, and local laws and regulations, including federal and State minimum wage laws, specifically relevant to the handling, processing, refurbishing and recycling of residential CEDs and must have proper authorization by all appropriate governing authorities to perform the handling, processing, refurbishment, and recycling.

(2) Recyclers and refurbishers must implement the appropriate measures to safeguard occupational and environmental health and safety, through the following:

(A) environmental health and safety training of personnel, including training with regard to material and equipment handling, worker exposure, controlling releases, and safety and emergency procedures;

(B) an up-to-date, written plan for the identification and management of hazardous materials; and

(C) an up-to-date, written plan for reporting and responding to exceptional pollutant releases, including emergencies such as accidents, spills, fires, and explosions.

(3) Recyclers and refurbishers must maintain (i) commercial general liability insurance or the equivalent corporate guarantee for accidents and other emergencies with limits of not less than $1,000,000 per occurrence and $1,000,000 aggregate and (ii) pollution legal liability insurance with limits not less than $1,000,000 per occurrence for companies engaged solely in the dismantling activities and $5,000,000 per occurrence for companies engaged in recycling.

(4) Recyclers and refurbishers must maintain on file documentation that demonstrates the completion of an environmental health and safety audit completed and certified by a competent internal and external auditor annually. A competent auditor is an individual who, through professional training or work experience, is appropriately qualified to evaluate the environmental health and safety conditions, practices, and procedures of the facility. Documentation of auditors' qualifications must be available for inspection by Agency officials and third-party auditors.

(5) Recyclers and refurbishers must maintain on file proof of workers' compensation and employers' liability insurance.

(6) Recyclers and refurbishers must provide adequate assurance (such as bonds or corporate guarantee) to cover environmental and other costs of the closure of the recycler or refurbisher's facility, including cleanup of stockpiled equipment and materials.

(7) Recyclers and refurbishers must apply due diligence principles to the selection of facilities to which components and materials (such as plastics, metals, and circuit boards) from CEDs and EEDs are sent for reuse and recycling.

(8) Recyclers and refurbishers must establish a documented environmental management system that is appropriate in level of detail and documentation to the scale and function of the facility, including documented regular self-audits or inspections of the recycler or refurbisher's environmental

compliance at the facility.

(9) Recyclers and refurbishers must use the appropriate equipment for the proper processing of incoming materials as well as controlling environmental releases to the environment. The dismantling operations and storage of CED and EED components that contain hazardous substances must be conducted indoors and over impervious floors. Storage areas must be adequate to hold all processed and unprocessed inventory. When heat is used to soften solder and when CED and EED components are shredded, operations must be designed to control indoor and outdoor hazardous air emissions.

(10) Recyclers and refurbishers must establish a system for identifying and properly managing components (such as circuit boards, batteries, CRTs, and mercury phosphor lamps) that are removed from CEDs and EEDs during disassembly. Recyclers and refurbishers must properly manage all hazardous and other components requiring special handling from CEDs and EEDs consistent with federal, State, and local laws and regulations. Recyclers and refurbishers must provide visible tracking (such as hazardous waste manifests or bills of lading) of hazardous components and materials from the facility to the destination facilities and documentation (such as contracts) stating how the destination facility processes the materials received. No recycler or refurbisher may send, either directly or through intermediaries, hazardous wastes to solid waste (non-hazardous waste) landfills or to non-hazardous waste incinerators for disposal or energy recovery. For the purpose of these guidelines, smelting of hazardous wastes to recover metals for reuse in conformance with all applicable laws and regulations is not considered disposal or energy recovery.

(11) Recyclers and refurbishers must use a regularly implemented and documented monitoring and record-keeping program that tracks inbound CED and EED material weights (total) and subsequent outbound weights (total to each destination), injury and illness rates, and compliance with applicable permit parameters including monitoring of effluents and emissions. Recyclers and refurbishers must maintain contracts or other documents, such as sales receipts, suitable to demonstrate: (i) the reasonable expectation that there is a downstream market or uses for designated electronics (which may include recycling or reclamation processes such as smelting to recover metals for reuse); and (ii) that any residuals from recycling or reclamation processes, or both, are properly handled and managed to maximize reuse and recycling of materials to the extent practical.

(12) Recyclers and refurbishers must comply with federal and international law and agreements regarding the export of used products or materials. In the case of exports of CEDs and EEDs, recyclers and refurbishers must comply with applicable requirements of the U.S. and of the import and transit countries and must maintain proper business records documenting its compliance. No recycler or refurbisher may establish or use intermediaries for the purpose of circumventing these U.S. import and transit country requirements.

(13) Recyclers and refurbishers that conduct transactions involving the transboundary shipment of used CEDs and EEDs shall use contracts (or the equivalent commercial arrangements) made in advance that detail the quantity and nature of the materials to be shipped. For the export of materials to a foreign country (directly or indirectly through downstream market contractors): (i) the shipment of intact televisions and computer monitors destined for reuse must include only whole products that are tested and certified as being in working order or requiring only minor repair (e.g. not requiring the replacement of circuit boards or CRTs), must be destined for reuse with respect to the original purpose, and the recipient must have verified a market for the sale or donation of such product for reuse; (ii) the shipments of CEDs and EEDs for material recovery must be prepared in a manner for recycling, including, without limitation, smelting where metals will be recovered, plastics recovery and glass-to-glass recycling; or (iii) the shipment of CEDs and EEDs are being exported to companies or facilities that are owned or controlled by the original equipment manufacturer.

(14) Recyclers and refurbishers must maintain the following export records for each shipment on file for a minimum of 3 years: (i) the facility name and the address to which shipment is exported; (ii) the shipment contents and volumes; (iii) the intended use of contents by the destination facility; (iv) any specification required by the destination facility in relation to shipment contents; (v) an assurance that all shipments for export, as applicable to the CED manufacturer, are legal and satisfy all applicable laws of the destination country.

(15) Recyclers and refurbishers must employ industry-accepted procedures for the destruction or sanitization of data on hard drives and other data storage devices. Acceptable guidelines for the destruction or sanitization of data are contained in the National Institute of Standards and Technology's Guidelines for Media Sanitation or those guidelines certified by the National Association for Information Destruction;

(16) No recycler or refurbisher may employ prison labor in any operation related to the

collection, transportation, recycling, and refurbishment of CEDs and EEDs. No recycler or refurbisher may employ any third party that uses or subcontracts for the use of prison labor.

Section 55. Collector responsibilities.

(a) No later than January 1 of each program year, collectors that collect or receive CEDs or EEDs for one or more manufacturers, recyclers, or refurbishers shall register with the Agency. Registration must be in the form and manner required by the Agency and must include, without limitation, the address of each location where CEDs or EEDs are received and the identification of each location at which the collector accepts CEDs or EEDs from a residence.

(b) Manufacturers, recyclers, refurbishers also acting as collectors shall so indicate on their registration under Section 30 or 50 and not register separately as collectors.

(c) No later than August 15, 2010, collectors must submit to the Agency, on forms and in a format prescribed by the Agency, a report for the period from January 1, 2010 through June 30, 2010 that contains the following information: the total weight of computers, the total weight of computer monitors, the total weight of televisions, and the total weight of EEDs collected or received for each manufacturer.

(d) No later than May 1 of each program year, collectors must submit to the Agency, on forms and in a format prescribed by the Agency, a report that contains the following information for the previous program year:

(1) the total weight of computers, the total weight of computer monitors, the total weight of televisions, and the total weight of EEDs collected or received for each manufacturer during the program year.

(2) a list of each recycler and refurbisher that received CEDs and EEDs from the collector and the total weight each recycler and refurbisher received.

(3) the address of each collector's facility where the CEDs and EEDs were collected or received. Each facility address must include the county in which the facility is located.

(e) Collectors may accept no more than 10 CEDs or EEDs at one time from individual members of the public and, when scheduling collection events, shall provide no fewer than 30 days' notice to the county waste agency of those events.

Section 60. Collection strategy for underserved counties.

(a) For program year 2010, all counties in this State except the following are considered underserved: Champaign, Clay, Clinton, Cook, DuPage, Fulton, Hancock, Henry, Jackson, Kane, Kendall, Knox, Lake, Livingston, Macoupin, McDonough, McHenry, McLean, Mercer, Peoria, Rock Island, St. Clair, Sangamon, Schuyler, Stevenson, Warren, Will, Williamson, and Winnebago.

(b) For program years 2011 and later, underserved counties shall be counties in this State that, during the program year 2 years prior, were not served by a minimum of one collection site that (i) accepted all types of CEDs and EEDs and (ii) was open for a minimum of 8 hours on at least one day per month of that program year. For the purposes of this subsection (b), 2009 shall be considered to have been a program year, and for the program year 2012 the determination of whether a county is underserved shall be based on the criteria of this subsection (b) instead of the county's inclusion in the list set forth in subsection (a) of this Section.

Section 65. State government procurement.

(a) The Department of Central Management Services shall ensure that all bid specifications and contracts for the purchase or lease of desktop computers, laptop or notebook computers, and computer monitors, by State agencies under a statewide master contract require that the electronic products have a Bronze performance tier or higher registration under the Electronic Product Environmental Assessment Tool ("EPEAT") operated by the Green Electronics Council.

(b) The Department of Central Management Services shall ensure that bid specifications and contracts for the purchase or lease of televisions and printers by State agencies under a statewide master contract require that the televisions have a Bronze performance tier or higher registration under EPEAT if the Department determines that there are an adequate number of the televisions registered under EPEAT to provide a sufficiently competitive bidding environment.

(c) This Section applies to bid specifications issued, and contracts entered into, on or after January 1, 2010.

Section 70. Relation to federal law. Following the adoption of a federal law or regulation that

establishes mandated recycling goals for CEDs that equal or exceed the goals set forth in this Act, the Agency shall notify the General Assembly of the federal law or regulation and recommend the repeal of this Act.

Section 75. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 80. Penalties.

(a) Except as otherwise provided in this Act, any person who violates any provision of this Act or fails to perform any duty under this Act is liable for a civil penalty not to exceed $1,000 for the violation and an additional civil penalty not to exceed $1,000 for each day the violation continues and is liable for a civil penalty not to exceed $5,000 for a second or subsequent violation and an additional civil penalty not to exceed $1,000 for each day the second or subsequent violation continues.

(b) A manufacturer that is not registered with the Agency as required under this Act, or that has not paid the registration fee as required under this Act, is liable for a civil penalty not to exceed $10,000 for the violation and an additional civil penalty not to exceed $10,000 for each day the violation continues.

(c) A manufacturer in violation of subsection (d) of Section 30 of this Act in program year 2012 or thereafter is liable for a civil penalty equal to the following:

(1) In program year 2012, if the total weight of CEDs and EEDs recycled or processed for reuse by the manufacturer is less than 60% of the manufacturer's individual recycling or reuse goal set forth in Section 19 of this Act, the manufacturer shall pay a penalty equal to the product of: (i) $0.70 per pound; multiplied by (ii) the difference between the manufacturer's individual recycling or reuse goal and the total weight of CEDs and EEDs recycled or processed for reuse by the manufacturer during the program year.

(2) In program year 2013, and each year thereafter, if the total weight of CEDs and EEDs recycled or processed for reuse by the manufacturer less than 75% of the manufacturer's individual recycling or reuse goal set forth in Section 19 of this Act, the manufacturer shall pay a penalty equal to the product of: (i) $0.70 per pound; multiplied by (ii) the difference between the manufacturer's individual recycling or reuse goal and the total weight of CEDs and EEDs recycled or processed for reuse by the manufacturer during the program year.

(d) Beginning January 1, 2010, a manufacturer in violation of subsection (e), (h), (i), (j), (k), or (l) of Section 30 is liable for a civil penalty not to exceed $5,000 for the violation.

(e) Any person in violation of Section 50 of this Act is liable for a civil penalty not to exceed $5,000 for the violation.

(f) A knowing violation of subsections (a) and (c) of Section 95 of this Act is a petty offense punishable by a fine of $100.

(g) The penalties provided for in this Act may be recovered in a civil action brought by the Attorney General on behalf of the Agency and the People of the State of Illinois. Any moneys collected under this Section in which the Attorney General has prevailed shall be deposited into the Electronic Recycling Fund, established under this Act.

(h) The Attorney General, at the request of the Agency or on his or her own motion, institute a civil action for an injunction, prohibitory or mandatory, to restrain violations of this Act or to require such actions as may be necessary to address violations of this Act.

(i) The penalties and injunctions provided in this Act are in addition to any penalties, injunctions, or other relief provided under any other law. Nothing in this Act bars a cause of action by the State for any other penalty, injunction, or relief provided by any other law.

Section 85. Electronics Recycling Fund. The Electronics Recycling Fund is created as a special fund in the State treasury. The Agency shall deposit all registration fees received under this Act into the Fund. All amounts held in the Fund shall be invested at interest by the State Treasurer. All income earned from the investments shall be deposited into the Electronics Recycling Fund no less frequently than quarterly. Pursuant to appropriation, all moneys in the Electronics Recycling Fund may be used by the Agency for its administration of this Act. Any moneys appropriated from the Electronics Recycling Fund, but not obligated, shall revert to the Fund.

Section 90. Relation to other State laws. Nothing in this Act affects the validity or application of any other law of this State, or regulations adopted thereunder.

Section 95. Landfill ban.

(a) Beginning January 1, 2012, no person may knowingly cause or allow the mixing of a CED, or any other computer, computer monitor, printer, or television with municipal waste that is intended for disposal at a landfill.

(b) Beginning January 1, 2012, no person may knowingly cause or allow the disposal of a CED or any other computer, computer monitor, printer, or television in a sanitary landfill.

(c) Beginning January 1, 2012, no person may knowingly cause or allow the mixing of a CED, or any other computer, computer monitor, printer, or television with waste that is intended for disposal by burning or incineration.

(d) Beginning January 1, 2012, no person may knowingly cause or allow the burning or incineration of a CED, or any other computer, computer monitor, printer, or television.

(e) Beginning April 1, 2012 through December 31, 2013, the Illinois Pollution Control Board (Board) is granted the authority to review petitions from any unit of local government in the State regarding the unit of local government's financial ability to collect the volume of CEDs and EEDs generated once the manufacturer's recycling and collection funds in that unit of local government's jurisdiction are exhausted.

(1) The Board shall consider the following criteria when reviewing a county's petition:

(A) total weight of CEDs and EEDs collected in the county during all preceding program years;

(B) total weight of CEDs and EEDs collected in the county during the year in which the petition is filed;

(C) the projected difference in weight between prior program years and the year in which the petition is filed; and

(D) funds budgeted by the unit of local government for solid waste removal in prior program years and the year in which the petition is filed.

(2) Based on these data, the Board shall determine if a county's landfill ban is eligible for temporary recission for the remainder of the program year in which the petition is filed. The Board shall inform the Agency in writing of any temporary recission that is granted. Pursuant to Section 20, the Agency in 2012 shall consider all recissions granted in its review of modifications needed to the program.

Section 900. The State Finance Act is amended by adding Section 5.708 as follows:
(30 ILCS 105/5.708 new)
Sec. 5.708. The Electronics Recycling Fund.

Section 999. Effective date. This Act takes effect upon becoming law.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Trotter, **Senate Bill No. 2321,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Wilhelmi, **Senate Bill No. 2342** having been printed, was taken up, read by title a second time.

Senator Wilhelmi offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2342

AMENDMENT NO. 1. Amend Senate Bill 2342 on page 3, line 18, after "municipality." by inserting the following:
"Any such property taxes must be levied on a basis that provides a rational relationship between the amount of the tax levied against each lot, block, tract, and parcel of land in each special service area and the special service benefit rendered.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Wilhelmi, **Senate Bill No. 2355** having been printed, was taken up, read by title a second time.

Senator Wilhelmi offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2355

AMENDMENT NO. 1. Amend Senate Bill 2355 by replacing everything after the enacting clause with the following:

"Section 5. The Criminal Code of 1961 is amended by changing Section 12-18 as follows:

(720 ILCS 5/12-18) (from Ch. 38, par. 12-18)

Sec. 12-18. General Provisions.

(a) No person accused of violating Sections 12-13, 12-14, 12-15 or 12-16 of this Code shall be presumed to be incapable of committing an offense prohibited by Sections 12-13, 12-14, 12-14.1, 12-15 or 12-16 of this Code because of age, physical condition or relationship to the victim, except as otherwise provided in subsection (c) of this Section. Nothing in this Section shall be construed to modify or abrogate the affirmative defense of infancy under Section 6-1 of this Code or the provisions of Section 5-805 of the Juvenile Court Act of 1987.

(b) Any medical examination or procedure which is conducted by a physician, nurse, medical or hospital personnel, parent, or caretaker for purposes and in a manner consistent with reasonable medical standards is not an offense under Sections 12-13, 12-14, 12-14.1, 12-15 and 12-16 of this Code.

(c) (Blank).

(d) (Blank).

(e) After a finding at a preliminary hearing that there is probable cause to believe that an accused has committed a violation of Section 12-13, 12-14, or 12-14.1 of this Code, or after an indictment is returned charging an accused with a violation of Section 12-13, 12-14, or 12-14.1 of this Code, or after a finding that a defendant charged with a violation of Section 12-13, 12-14, or 12-14.1 of this Code is unfit to stand trial pursuant to Section 104-16 of the Code of Criminal Procedure of 1963 where the finding is made prior to preliminary hearing, at the request of the person who was the victim of the violation of Section 12-13, 12-14, or 12-14.1, the prosecuting State's attorney shall seek an order from the court to compel the accused to be tested within 48 hours for any sexually transmissible disease, including a test for infection with human immunodeficiency virus (HIV). The medical tests shall be performed only by appropriately licensed medical practitioners. The test for infection with human immunodeficiency virus (HIV) shall consist of an enzyme-linked immunosorbent assay (ELISA) test, or such other test as may be approved by the Illinois Department of Public Health; in the event of a positive result, the Western Blot Assay or a more reliable confirmatory test shall be administered. The results of the tests and any follow-up tests shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the victim, to the defendant, to the State's Attorney, and to the judge who entered the order, for the judge's inspection in camera. The judge shall provide to the victim a referral to the Illinois Department of Public Health HIV/AIDS toll-free hotline for counseling and information in connection with the test result. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom, if anyone, the result of the testing may be revealed; however, in no case shall the identity of the victim be disclosed. The court shall order that the cost of the tests shall be paid by the county, and shall ~~may~~ be taxed as costs against the accused if convicted.

(f) Whenever any law enforcement officer has reasonable cause to believe that a person has been delivered a controlled substance without his or her consent, the law enforcement officer shall advise the victim about seeking medical treatment and preserving evidence.

(g) Every hospital providing emergency hospital services to an alleged sexual assault survivor, when there is reasonable cause to believe that a person has been delivered a controlled substance without his or her consent, shall designate personnel to provide:

(1) An explanation to the victim about the nature and effects of commonly used controlled substances and how such controlled substances are administered.

(2) An offer to the victim of testing for the presence of such controlled substances.

(3) A disclosure to the victim that all controlled substances or alcohol ingested by the victim will be disclosed by the test.

(4) A statement that the test is completely voluntary.

(5) A form for written authorization for sample analysis of all controlled substances and alcohol ingested by the victim.

A physician licensed to practice medicine in all its branches may agree to be a designated person under this subsection.

No sample analysis may be performed unless the victim returns a signed written authorization within 30 days after the sample was collected.

Any medical treatment or care under this subsection shall be only in accordance with the order of a physician licensed to practice medicine in all of its branches. Any testing under this subsection shall be only in accordance with the order of a licensed individual authorized to order the testing.
(Source: P.A. 93-958, eff. 8-20-04; 94-397, eff. 1-1-06.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Hultgren, **Senate Bill No. 2356,** having been printed, was taken up, read by title a second time.

Senate Floor Amendment No. 1 was held in the Committee on Rules.

There being no further amendments, the bill was ordered to a third reading.

On motion of Senator Haine, **Senate Bill No. 2358** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Insurance, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 2358

AMENDMENT NO. 1. Amend Senate Bill 2358, on page 4, line 24, by replacing "(G) enter" with "(J) entering".

Senate Floor Amendment No. 2 was held in the Committee on Insurance.

Senate Floor Amendment No. 3 was held in the Committee on Rules.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Risinger, **Senate Bill No. 2374** having been printed, was taken up, read by title a second time.

Senator Risinger offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2374

AMENDMENT NO. 1. Amend Senate Bill 2374, on page 9, line 3, after "record." by adding the following:

"The conveyance shall be made subject to the condition that title to the buildings and the land shall revert to the State of Illinois, Department of Corrections, if Peoria County ceases to use the buildings and the land for a public purpose.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Martinez, **Senate Bill No. 2402** having been printed, was taken up, read by title a second time.

The following amendments were offered in the Committee on Education, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 2402

AMENDMENT NO. 1. Amend Senate Bill 2402 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Section 27A-4 as follows:

(105 ILCS 5/27A-4)

Sec. 27A-4. General Provisions.

(a) The ~~The~~ General Assembly does not intend to alter or amend the provisions of any court-ordered desegregation plan in effect for any school district. A charter school shall be subject to all federal and State laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, marital status, or need for special education services.

(b) The total number of charter schools operating under this Article at any one time shall not exceed 60. Not more than 30 charter schools shall operate at any one time in any city having a population exceeding 500,000; not more than 15 charter schools shall operate at any one time in the counties of DuPage, Kane, Lake, McHenry, Will, and that portion of Cook County that is located outside a city having a population exceeding 500,000, with not more than one charter school that has been initiated by a board of education, or by an intergovernmental agreement between or among boards of education, operating at any one time in the school district where the charter school is located; and not more than 15 charter schools shall operate at any one time in the remainder of the State, with not more than one charter school that has been initiated by a board of education, or by an intergovernmental agreement between or among boards of education, operating at any one time in the school district where the charter school is located.

For purposes of implementing this Section, the State Board shall assign a number to each charter submission it receives under Section 27A-6 for its review and certification, based on the chronological order in which the submission is received by it. The State Board shall promptly notify local school boards when the maximum numbers of certified charter schools authorized to operate have been reached.

(c) No charter shall be granted under this Article that would convert any existing private, parochial, or non-public school to a charter school.

(d) Enrollment in a charter school shall be open to any pupil who resides within the geographic boundaries of the area served by the local school board, provided that the board of education in a city having a population exceeding 500,000 may designate attendance boundaries for no more than one-third of the charter schools permitted in the city if the board of education determines that attendance boundaries are needed to relieve overcrowding or to better serve low-income and at-risk students. Students residing within an attendance boundary may be given priority for enrollment, but must not be required to attend the charter school.

(e) Nothing in this Article shall prevent 2 or more local school boards from jointly issuing a charter to a single shared charter school, provided that all of the provisions of this Article are met as to those local school boards.

(f) No local school board shall require any employee of the school district to be employed in a charter school.

(g) No local school board shall require any pupil residing within the geographic boundary of its district to enroll in a charter school.

(h) If there are more eligible applicants for enrollment in a charter school than there are spaces available, successful applicants shall be selected by lottery. However, priority shall be given to siblings of pupils enrolled in the charter school and to pupils who were enrolled in the charter school the previous school year, unless expelled for cause, and priority may be given to pupils residing within the charter school's attendance boundary, if a boundary has been designated by the board of education in a city having a population exceeding 500,000. Dual enrollment at both a charter school and a public school or non-public school shall not be allowed. A pupil who is suspended or expelled from a charter school shall be deemed to be suspended or expelled from the public schools of the school district in which the pupil resides.

(i) (Blank).

(j) Notwithstanding any other provision of law to the contrary, a school district in a city having a population exceeding 500,000 shall not have a duty to collectively bargain with an exclusive representative of its employees over decisions to grant or deny a charter school proposal under Section 27A-8 of this Code, decisions to renew or revoke a charter under Section 27A-9 of this Code, and the impact of these decisions, provided that nothing in this Section shall have the effect of negating, abrogating, replacing, reducing, diminishing, or limiting in any way employee rights, guarantees, or privileges granted in Sections 2, 3, 7, 8, 10, 14, and 15 of the Illinois Educational Labor Relations Act.

(Source: P.A. 92-16, eff. 6-28-01; 93-3, eff. 4-16-03; 93-861, eff. 1-1-05.)".

Senator Martinez offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2402

AMENDMENT NO. _2_. Amend Senate Bill 2402, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Section 27A-4 as follows:

(105 ILCS 5/27A-4)

Sec. 27A-4. General Provisions.

(a) The General Assembly does not intend to alter or amend the provisions of any court-ordered desegregation plan in effect for any school district. A charter school shall be subject to all federal and State laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, marital status, or need for special education services.

(b) The total number of charter schools operating under this Article at any one time shall not exceed 100 ~~60~~. ~~Not more than 30 charter schools shall operate at any one time in any city having a population exceeding 500,000; not more than 15 charter schools shall operate at any one time in the counties of DuPage, Kane, Lake, McHenry, Will, and that portion of Cook County that is located outside a city having a population exceeding 500,000, with not more than one charter school that has been initiated by a board of education, or by an intergovernmental agreement between or among boards of education, operating at any one time in the school district where the charter school is located; and not more than 15 charter schools shall operate at any one time in the remainder of the State, with not more than one charter school that has been initiated by a board of education, or by an intergovernmental agreement between or among boards of education, operating at any one time in the school district where the charter school is located.~~

For purposes of implementing this Section, the State Board shall assign a number to each charter submission it receives under Section 27A-6 for its review and certification, based on the chronological order in which the submission is received by it. The State Board shall promptly notify local school boards when the maximum numbers of certified charter schools authorized to operate have been reached.

(c) No charter shall be granted under this Article that would convert any existing private, parochial, or non-public school to a charter school.

(d) Enrollment in a charter school shall be open to any pupil who resides within the geographic boundaries of the area served by the local school board, provided that the board of education in a city having a population exceeding 500,000 may designate attendance boundaries for no more than one-third of the charter schools permitted in the city if the board of education determines that attendance boundaries are needed to relieve overcrowding or to better serve low-income and at-risk students. Students residing within an attendance boundary may be given priority for enrollment, but must not be required to attend the charter school.

(e) Nothing in this Article shall prevent 2 or more local school boards from jointly issuing a charter to a single shared charter school, provided that all of the provisions of this Article are met as to those local school boards.

(f) No local school board shall require any employee of the school district to be employed in a charter school.

(g) No local school board shall require any pupil residing within the geographic boundary of its district to enroll in a charter school.

(h) If there are more eligible applicants for enrollment in a charter school than there are spaces available, successful applicants shall be selected by lottery. However, priority shall be given to siblings of pupils enrolled in the charter school and to pupils who were enrolled in the charter school the previous school year, unless expelled for cause, and priority may be given to pupils residing within the charter school's attendance boundary, if a boundary has been designated by the board of education in a city having a population exceeding 500,000. Dual enrollment at both a charter school and a public school or non-public school shall not be allowed. A pupil who is suspended or expelled from a charter school shall be deemed to be suspended or expelled from the public schools of the school district in which the pupil resides.

(i) (Blank).

(j) Notwithstanding any other provision of law to the contrary, a school district in a city having a population exceeding 500,000 shall not have a duty to collectively bargain with an exclusive representative of its employees over decisions to grant or deny a charter school proposal under Section 27A-8 of this Code, decisions to renew or revoke a charter under Section 27A-9 of this Code, and the

impact of these decisions, provided that nothing in this Section shall have the effect of negating, abrogating, replacing, reducing, diminishing, or limiting in any way employee rights, guarantees, or privileges granted in Sections 2, 3, 7, 8, 10, 14, and 15 of the Illinois Educational Labor Relations Act. (Source: P.A. 92-16, eff. 6-28-01; 93-3, eff. 4-16-03; 93-861, eff. 1-1-05.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Lightford offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2402

AMENDMENT NO. 3. Amend Senate Bill 2402, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2, on page 1, lines 5 and 6, by replacing "Section 27A-4" with "Sections 27A-4 and 27A-5"; and

on page 4, immediately below line 25, by inserting the following:

"(105 ILCS 5/27A-5)

Sec. 27A-5. Charter school; legal entity; requirements.

(a) A charter school shall be a public, nonsectarian, nonreligious, non-home based, and non-profit school. A charter school shall be organized and operated as a nonprofit corporation or other discrete, legal, nonprofit entity authorized under the laws of the State of Illinois.

(b) A charter school may be established under this Article by creating a new school or by converting an existing public school or attendance center to charter school status. Beginning on the effective date of this amendatory Act of the 93rd General Assembly, in all new applications submitted to the State Board or a local school board to establish a charter school in a city having a population exceeding 500,000, operation of the charter school shall be limited to one campus. The changes made to this Section by this amendatory Act of the 93rd General Assembly do not apply to charter schools existing or approved on or before the effective date of this amendatory Act. Operation of each of the 40 additional charter schools authorized by this amendatory Act of the 95th General Assembly under Section 27A-4 of this Code shall be limited to one campus.

(c) A charter school shall be administered and governed by its board of directors or other governing body in the manner provided in its charter. The governing body of a charter school shall be subject to the Freedom of Information Act and the Open Meetings Act.

(d) A charter school shall comply with all applicable health and safety requirements applicable to public schools under the laws of the State of Illinois.

(e) Except as otherwise provided in the School Code, a charter school shall not charge tuition; provided that a charter school may charge reasonable fees for textbooks, instructional materials, and student activities.

(f) A charter school shall be responsible for the management and operation of its fiscal affairs including, but not limited to, the preparation of its budget. An audit of each charter school's finances shall be conducted annually by an outside, independent contractor retained by the charter school.

(g) A charter school shall comply with all provisions of this Article and its charter. A charter school is exempt from all other State laws and regulations in the School Code governing public schools and local school board policies, except the following:

(1) Sections 10-21.9 and 34-18.5 of the School Code regarding criminal history records checks and checks of the Statewide Sex Offender Database of applicants for employment;

(2) Sections 24-24 and 34-84A of the School Code regarding discipline of students;

(3) The Local Governmental and Governmental Employees Tort Immunity Act;

(4) Section 108.75 of the General Not For Profit Corporation Act of 1986 regarding indemnification of officers, directors, employees, and agents;

(5) The Abused and Neglected Child Reporting Act;

(6) The Illinois School Student Records Act; and

(7) Section 10-17a of the School Code regarding school report cards.

(h) A charter school may negotiate and contract with a school district, the governing body of a State college or university or public community college, or any other public or for-profit or nonprofit private entity for: (i) the use of a school building and grounds or any other real property or facilities that the charter school desires to use or convert for use as a charter school site, (ii) the operation and maintenance thereof, and (iii) the provision of any service, activity, or undertaking that the charter

school is required to perform in order to carry out the terms of its charter. However, a charter school that is established on or after the effective date of this amendatory Act of the 93rd General Assembly and that operates in a city having a population exceeding 500,000 may not contract with a for-profit entity to manage or operate the school during the period that commences on the effective date of this amendatory Act of the 93rd General Assembly and concludes at the end of the 2004-2005 school year. Except as provided in subsection (i) of this Section, a school district may charge a charter school reasonable rent for the use of the district's buildings, grounds, and facilities. Any services for which a charter school contracts with a school district shall be provided by the district at cost. Any services for which a charter school contracts with a local school board or with the governing body of a State college or university or public community college shall be provided by the public entity at cost.

(i) In no event shall a charter school that is established by converting an existing school or attendance center to charter school status be required to pay rent for space that is deemed available, as negotiated and provided in the charter agreement, in school district facilities. However, all other costs for the operation and maintenance of school district facilities that are used by the charter school shall be subject to negotiation between the charter school and the local school board and shall be set forth in the charter.

(j) A charter school may limit student enrollment by age or grade level.

(Source: P.A. 93-3, eff. 4-16-03; 93-909, eff. 8-12-04; 94-219, eff. 7-14-05.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1, 2 and 3 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Martinez, **Senate Bill No. 2403** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Human Services, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 2403

AMENDMENT NO. 1. Amend Senate Bill 2403 by replacing line 26 on page 6 and lines 1 through 14 on page 7 with the following:

"Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the support and real estate tax components of the rates taking effect on July 1, 2009 shall be computed using the most recent cost reports on file with the Department of Healthcare and Family Services no later than April 1, 2007, updated for inflation to January 1, 2008. After the effective date of this amendatory Act of the 95th General Assembly, facilities shall have the support and real estate tax components of their Medicaid rate computed every second July 1 using the most recent cost reports on file with the Department of Healthcare and Family Services no later than April 1, 2 years prior to the effective date of the rate, updated for inflation to January 1 of the year prior to the effective date of the rate.".

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Silverstein, **Senate Bill No. 2426** having been printed, was taken up, read by title a second time.

Senator Silverstein offered the following amendment:

AMENDMENT NO. 1 TO SENATE BILL 2426

AMENDMENT NO. 1. Amend Senate Bill 2426 on page 2, by inserting immediately below line 20 the following:

"(a-5) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.".

Senator Silverstein moved the foregoing amendment be ordered to lie on the table.

The motion to table prevailed.

Senate Floor Amendment No. 2 was held in the Committee on Rules.

Senator Silverstein offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2426

AMENDMENT NO. 3. Amend Senate Bill 2426 by replacing everything after the enacting clause with the following:

"Section 5. The Criminal Code of 1961 is amended by changing Section 12-7.5 as follows:

(720 ILCS 5/12-7.5)

Sec. 12-7.5. Cyberstalking.

(a) A person commits cyberstalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions, harasses another person through the use of electronic communication and:

(1) at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement, or restraint and the threat is directed towards that person or a family member of that person, or

(2) places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint; or -

(3) at any time knowingly solicits the commission of an act by any person which would be a violation of this Code directed towards that person or a family member of that person.

(a-5) A person commits cyberstalking when he or she, knowingly and without lawful justification, creates and maintains an Internet website or webpage which is accessible to one or more third parties for a period of at least 24 hours, and which contains statements harassing another person and:

(1) which communicates a threat of immediate or future bodily harm, sexual assault, confinement, or restraint, where the threat is directed towards that person or a family member of that person, or

(2) which places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint, or

(3) which knowingly solicits the commission of an act by any person which would be a violation of this Code directed towards that person or a family member of that person.

(b) As used in this Section:

"Harass" means to engage in a knowing and willful course of conduct directed at a specific person that alarms, torments, or terrorizes that person.

"Third party" means any person other than the person violating these provisions and the person or persons towards whom the violator's actions are directed.

"Electronic communication" means any transfer of signs, signals, writings, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electronmagnetic, photoelectric, or photo-optical system. "Electronic communication" includes transmissions by a computer through the Internet to another computer.

(c) Sentence. Cyberstalking is a Class 4 felony. A second or subsequent conviction for cyberstalking is a Class 3 felony.

(d) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

(Source: P.A. 92-199, eff. 8-1-01.)

Section 10. The Harassing and Obscene Communications Act is amended by changing Section 1-2 as follows:

(720 ILCS 135/1-2)

Sec. 1-2. Harassment through electronic communications.

(a) Harassment through electronic communications is the use of electronic communication for any of the following purposes:

(1) Making any comment, request, suggestion or proposal which is obscene with an intent to offend;

(2) Interrupting, with the intent to harass, the telephone service or the electronic communication service of any person;

(3) Transmitting to any person, with the intent to harass and regardless of whether the

communication is read in its entirety or at all, any file, document, or other communication which prevents that person from using his or her telephone service or electronic communications device;

(3.1) Transmitting an electronic communication or knowingly inducing a person to transmit an electronic communication for the purpose of harassing another person who is under 13 years of age, regardless of whether the person under 13 years of age consents to the harassment, if the defendant is at least 16 years of age at the time of the commission of the offense;

(4) Threatening injury to the person or to the property of the person to whom an electronic communication is directed or to any of his or her family or household members; or

(5) Knowingly permitting any electronic communications device to be used for any of the purposes mentioned in this subsection (a).

(b) As used in this Act:

(1) "Electronic communication" means any transfer of signs, signals, writings, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric or photo-optical system. "Electronic communication" includes transmissions by a computer through the Internet to another computer.

(2) "Family or household member" includes spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, and persons with disabilities and their personal assistants. For purposes of this Act, neither a casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts shall be deemed to constitute a dating relationship.

(c) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

(Source: P.A. 90-578, eff. 6-1-98; 91-878, eff. 1-1-01.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 3 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Steans, **Senate Bill No. 2472** having been printed, was taken up, read by title a second time.

Senate Floor Amendment No. 1 was held in the Committee on Rules.

Senator Steans offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2472

AMENDMENT NO. 2. Amend Senate Bill 2472 by replacing everything after the enacting clause with the following:

"Section 5. The Liquor Control Act of 1934 is amended by changing Section 6-35 as follows:

(235 ILCS 5/6-35)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 6-35. Alcopops ~~Alcopop advertising~~.

(a) For purposes of this Section, "alcopop" means a flavored alcoholic beverage or flavored malt beverage that includes (i) a malt beverage containing a malt base or beer and added natural or artificial blending material, such as fruit juices, flavors, flavorings, colorings, or preservatives where such blending material constitutes .5% or more of the alcohol by volume contained in the finished beverage; (ii) a beverage containing wine and more than 15% added natural or artificial blending material, such as fruit juices, flavors, flavorings, or adjuncts, water (plain, carbonated, or sparkling), colorings, or preservatives; ~~or~~ (iii) a beverage containing distilled alcohol and added natural or artificial blending material, such as fruit juices, flavors, flavorings, colorings, or preservatives ; or (iv) a flavored alcoholic beverage containing other stimulants, including, but not limited to, caffeine, guarana, taurine, or ginseng, where the beverage constitutes 0.5% or more of alcohol by volume.

(b) No entity may advertise, promote, or market any alcopop beverages toward children. Advertise,

promote, or market includes, but is not limited to the following:

(1) the use of cartoons and youth-orientated photos in advertising, promotion, packaging, or labeling of alcohol products;

(2) sponsorships of athletic events where the intended audience is primarily children;

(3) billboards advertising alcopops placed within 500 feet of schools, public parks, amusement parks, and places of worship; and

(4) the display of any alcopop beverage in any videogame, theater production, or other live performances where the intended audience is primarily children.

(c) No entity shall sell for consumption flavored alcoholic beverages containing other stimulants, including, but not limited to, caffeine, guarana, taurine, or ginseng, unless individual containers of the beverage have imprinted on each individual container the following:

(1) the words "alcoholic beverage" or "contains alcohol"; and

(2) the alcohol content of the beverage.

(d) ~~(c)~~ Any person who violates this Section is guilty of a business offense and shall be fined $500 for a first offense and $1,000 for a second or subsequent offense.

(e) Nothing in this Section shall be construed to be inconsistent with any other provision of this Section or any other State or federal laws, rules, or regulations regarding the labeling of alcoholic beverages.

(Source: P.A. 95-618, eff. 6-1-08.)

Section 99. Effective date. This Act takes effect January 1, 2009.".

The motion prevailed.

And the amendment was adopted and ordered printed.

Senate Floor Amendment No. 3 was referred to the Committee on Rules earlier today.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Hunter, **Senate Bill No. 2476** having been printed, was taken up, read by title a second time.

Senator Hunter offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2476

AMENDMENT NO. 1. Amend Senate Bill 2476 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Commission to Study Disproportionate Justice Impact Act.

Section 5. Purpose. There is created a Commission to Study Disproportionate Justice Impact. The Commission shall:

(1) study the nature and extent of the harm caused to minority communities through the practical application of the violation and sentencing provisions of the Illinois Vehicle Code, the Criminal Code of 1961, the Cannabis Control Act, the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, and the Unified Code of Corrections;

(2) develop specific findings on the nature and extent of the harm caused to minority communities; and

(3) offer recommendations for legislation and policy changes to address the disproportionate impact that even facially neutral laws can have on minority communities.

Section 10. Composition. The Commission shall be composed of the following members:

(a) Two members of the Senate appointed by the Senate President, one of whom the President shall designate to serve as co-chair, and two members of the Senate appointed by the Minority Leader of the Senate.

(b) Two members of the House of Representatives appointed by the Speaker of the House of Representatives, one of whom the Speaker shall designate to serve as co-chair, and two members of the House of Representatives appointed by the Minority Leader of the House of Representatives.

(c) The following persons or their designees:

(1) the Attorney General,
(2) the Chief Judge of the Circuit Court of Cook County,
(3) the Director of State Police,
(4) the Superintendent of the Chicago Police Department,
(5) the sheriff of Cook County,
(6) the State Appellate Defender,
(7) the Cook County Public Defender,
(8) the Director of the Office of the State's Attorneys Appellate Prosecutor,
(9) the Cook County State's Attorney,
(10) the Executive Director of the Criminal Justice Information Authority,
(11) the Director of Corrections,
(12) the Director of Juvenile Justice, and
(13) the Executive Director of the Illinois African-American Family Commission.

(d) The co-chairs may name up to 8 persons, representing minority communities within Illinois, groups involved in the improvement of the administration of justice, behavioral health, criminal justice, law enforcement, and the rehabilitation of former inmates, community groups, and other interested parties.

Section 15. Compensation; support. The members of the Commission shall serve without compensation, but may be reimbursed for reasonable expenses incurred as a result of their duties as members of the Commission from funds appropriated by the General Assembly for that purpose. The Criminal Justice Information Authority shall provide staff and administrative support services to the Commission.

Section 20. Meetings; report. The Commission shall hold one or more public hearings, at which public testimony shall be heard. The Commission shall report its findings and recommendations to the General Assembly on or before December 31, 2009, after which the Commission shall dissolve.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Lightford, **Senate Bill No. 2481,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Crotty, **Senate Bill No. 2499** having been printed, was taken up, read by title a second time.

Senator Crotty offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2499

AMENDMENT NO. 1. Amend Senate Bill 2499 by replacing everything after the enacting clause with the following:

"Section 5. The State Employees Group Insurance Act of 1971 is amended by changing Section 6.11 as follows:

(5 ILCS 375/6.11)

Sec. 6.11. Required health benefits; Illinois Insurance Code requirements. The program of health benefits shall provide the post-mastectomy care benefits required to be covered by a policy of accident and health insurance under Section 356t of the Illinois Insurance Code. The program of health benefits shall provide the coverage required under Sections 356g.5, 356u, 356w, 356x, 356z.2, 356z.4, 356z.6, ~~and~~ 356z.9, 356z.10, and 356z.11 ~~and 356z.9~~ of the Illinois Insurance Code. The program of health benefits must comply with Section 155.37 of the Illinois Insurance Code.

(Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; revised 12-4-07.)

Section 10. The Counties Code is amended by changing Section 5-1069.3 as follows:

(55 ILCS 5/5-1069.3)

Sec. 5-1069.3. Required health benefits. If a county, including a home rule county, is a self-insurer for

purposes of providing health insurance coverage for its employees, the coverage shall include coverage for the post-mastectomy care benefits required to be covered by a policy of accident and health insurance under Section 356t and the coverage required under Sections 356g.5, 356u, 356w, 356x, 356z.6, ~~and~~ 356z.9, 356z.10, and 356z.11 ~~and 356z.9~~ of the Illinois Insurance Code. The requirement that health benefits be covered as provided in this Section is an exclusive power and function of the State and is a denial and limitation under Article VII, Section 6, subsection (h) of the Illinois Constitution. A home rule county to which this Section applies must comply with every provision of this Section.
(Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; revised 12-4-07.)

Section 15. The Illinois Municipal Code is amended by changing Section 10-4-2.3 as follows:
(65 ILCS 5/10-4-2.3)
Sec. 10-4-2.3. Required health benefits. If a municipality, including a home rule municipality, is a self-insurer for purposes of providing health insurance coverage for its employees, the coverage shall include coverage for the post-mastectomy care benefits required to be covered by a policy of accident and health insurance under Section 356t and the coverage required under Sections 356g.5, 356u, 356w, 356x, 356z.6, ~~and~~ 356z.9, 356z.10, and 356z.11 ~~and 356z.9~~ of the Illinois Insurance Code. The requirement that health benefits be covered as provided in this is an exclusive power and function of the State and is a denial and limitation under Article VII, Section 6, subsection (h) of the Illinois Constitution. A home rule municipality to which this Section applies must comply with every provision of this Section.
(Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; revised 12-4-07.)

Section 20. The School Code is amended by changing Section 10-22.3f as follows:
(105 ILCS 5/10-22.3f)
Sec. 10-22.3f. Required health benefits. Insurance protection and benefits for employees shall provide the post-mastectomy care benefits required to be covered by a policy of accident and health insurance under Section 356t and the coverage required under Sections 356g.5, 356u, 356w, 356x, 356z.6, ~~and~~ 356z.9 , and 356z.11 of the Illinois Insurance Code.
(Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07; revised 12-4-07.)

Section 25. The Illinois Insurance Code is amended by adding Section 356z.11 as follows:
(215 ILCS 5/356z.11 new)
Sec. 356z.11. Habilitative services for children.
(a) As used in this Section, "habilitative services" means occupational therapy, physical therapy, speech therapy, and other services prescribed by the insured's treating physician pursuant to a treatment plan to enhance the ability of a child to function with a congenital, genetic, or early acquired disorder. A congenital or genetic disorder includes, but is not limited to, hereditary disorders. An early acquired disorder refers to a disorder resulting from illness, trauma, injury, or some other event or condition suffered by a child prior to that child developing functional life skills such as, but not limited to, walking, talking, or self-help skills. Congenital, genetic, and early acquired disorders may include, but are not limited to, autism or an autism spectrum disorder, cerebral palsy, and other disorders resulting from early childhood illness, trauma, or injury.
(b) A group or individual policy of accident and health insurance or managed care plan amended, delivered, issued, or renewed after the effective date of this amendatory Act of the 95th General Assembly must provide coverage for habilitative services for children under 19 years of age with a congenital, genetic, or early acquired disorder so long as all of the following conditions are met:
(1) A physician licensed to practice medicine in all its branches has:
(A) diagnosed the child's congenital, genetic, or early acquired disorder; and
(B) determined the treatment to be therapeutic and not solely experimental or investigational.
(2) The treatment is administered under the supervision of a physician licensed to practice medicine in all its branches.
(c) The coverage required by this Section shall be subject to other general exclusions and limitations of the policy, including coordination of benefits, participating provider requirements, restrictions on services provided by family or household members, utilization review of health care services, including review of medical necessity, case management, experimental, and investigational treatments, and other managed care provisions.
(d) Upon request of the reimbursing insurer, the provider under whose supervision the habilitative services are being provided shall furnish medical records, clinical notes, or other necessary data to allow the insurer to substantiate that initial or continued medical treatment is medically necessary and that the

patient's condition is clinically improving. When the treating provider anticipates that continued treatment is or will be required to permit the patient to achieve demonstrable progress, the insurer may request that the provider furnish a treatment plan consisting of diagnosis, proposed treatment by type, frequency, anticipated duration of treatment, the anticipated goals of treatment, and how frequently the treatment plan will be updated.

Section 30. The Health Maintenance Organization Act is amended by changing Section 5-3 as follows:

(215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

Sec. 5-3. Insurance Code provisions.

(a) Health Maintenance Organizations shall be subject to the provisions of Sections 133, 134, 137, 140, 141.1, 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x, 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11 ~~356z.9~~, 364.01, 367.2, 367.2-5, 367i, 368a, 368b, 368c, 368d, 368e, 370c, 401, 401.1, 402, 403, 403A, 408, 408.2, 409, 412, 444, and 444.1, paragraph (c) of subsection (2) of Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

(b) For purposes of the Illinois Insurance Code, except for Sections 444 and 444.1 and Articles XIII and XIII 1/2, Health Maintenance Organizations in the following categories are deemed to be "domestic companies":

(1) a corporation authorized under the Dental Service Plan Act or the Voluntary Health Services Plans Act;

(2) a corporation organized under the laws of this State; or

(3) a corporation organized under the laws of another state, 30% or more of the enrollees of which are residents of this State, except a corporation subject to substantially the same requirements in its state of organization as is a "domestic company" under Article VIII 1/2 of the Illinois Insurance Code.

(c) In considering the merger, consolidation, or other acquisition of control of a Health Maintenance Organization pursuant to Article VIII 1/2 of the Illinois Insurance Code,

(1) the Director shall give primary consideration to the continuation of benefits to enrollees and the financial conditions of the acquired Health Maintenance Organization after the merger, consolidation, or other acquisition of control takes effect;

(2)(i) the criteria specified in subsection (1)(b) of Section 131.8 of the Illinois Insurance Code shall not apply and (ii) the Director, in making his determination with respect to the merger, consolidation, or other acquisition of control, need not take into account the effect on competition of the merger, consolidation, or other acquisition of control;

(3) the Director shall have the power to require the following information:

(A) certification by an independent actuary of the adequacy of the reserves of the Health Maintenance Organization sought to be acquired;

(B) pro forma financial statements reflecting the combined balance sheets of the acquiring company and the Health Maintenance Organization sought to be acquired as of the end of the preceding year and as of a date 90 days prior to the acquisition, as well as pro forma financial statements reflecting projected combined operation for a period of 2 years;

(C) a pro forma business plan detailing an acquiring party's plans with respect to the operation of the Health Maintenance Organization sought to be acquired for a period of not less than 3 years; and

(D) such other information as the Director shall require.

(d) The provisions of Article VIII 1/2 of the Illinois Insurance Code and this Section 5-3 shall apply to the sale by any health maintenance organization of greater than 10% of its enrollee population (including without limitation the health maintenance organization's right, title, and interest in and to its health care certificates).

(e) In considering any management contract or service agreement subject to Section 141.1 of the Illinois Insurance Code, the Director (i) shall, in addition to the criteria specified in Section 141.2 of the Illinois Insurance Code, take into account the effect of the management contract or service agreement on the continuation of benefits to enrollees and the financial condition of the health maintenance organization to be managed or serviced, and (ii) need not take into account the effect of the management contract or service agreement on competition.

(f) Except for small employer groups as defined in the Small Employer Rating, Renewability and Portability Health Insurance Act and except for medicare supplement policies as defined in Section 363 of the Illinois Insurance Code, a Health Maintenance Organization may by contract agree with a group

or other enrollment unit to effect refunds or charge additional premiums under the following terms and conditions:

(i) the amount of, and other terms and conditions with respect to, the refund or additional premium are set forth in the group or enrollment unit contract agreed in advance of the period for which a refund is to be paid or additional premium is to be charged (which period shall not be less than one year); and

(ii) the amount of the refund or additional premium shall not exceed 20% of the Health Maintenance Organization's profitable or unprofitable experience with respect to the group or other enrollment unit for the period (and, for purposes of a refund or additional premium, the profitable or unprofitable experience shall be calculated taking into account a pro rata share of the Health Maintenance Organization's administrative and marketing expenses, but shall not include any refund to be made or additional premium to be paid pursuant to this subsection (f)). The Health Maintenance Organization and the group or enrollment unit may agree that the profitable or unprofitable experience may be calculated taking into account the refund period and the immediately preceding 2 plan years.

The Health Maintenance Organization shall include a statement in the evidence of coverage issued to each enrollee describing the possibility of a refund or additional premium, and upon request of any group or enrollment unit, provide to the group or enrollment unit a description of the method used to calculate (1) the Health Maintenance Organization's profitable experience with respect to the group or enrollment unit and the resulting refund to the group or enrollment unit or (2) the Health Maintenance Organization's unprofitable experience with respect to the group or enrollment unit and the resulting additional premium to be paid by the group or enrollment unit.

In no event shall the Illinois Health Maintenance Organization Guaranty Association be liable to pay any contractual obligation of an insolvent organization to pay any refund authorized under this Section.
(Source: P.A. 94-906, eff. 1-1-07; 94-1076, eff. 12-29-06; 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; revised 12-4-07.)

Section 35. The Voluntary Health Services Plans Act is amended by changing Section 10 as follows:
(215 ILCS 165/10) (from Ch. 32, par. 604)

Sec. 10. Application of Insurance Code provisions. Health services plan corporations and all persons interested therein or dealing therewith shall be subject to the provisions of Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c, 149, 155.37, 354, 355.2, 356g.5, 356r, 356t, 356u, 356v, 356w, 356x, 356y, 356z.1, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11 ~~356z.9~~, 364.01, 367.2, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7) and (15) of Section 367 of the Illinois Insurance Code.
(Source: P.A. 94-1076, eff. 12-29-06; 95-189, eff. 8-16-07; 95-331, eff. 8-21-07; 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; revised 12-5-07.)

Section 90. The State Mandates Act is amended by adding Section 8.32 as follows:
(30 ILCS 805/8.32 new)

Sec. 8.32. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 95th General Assembly.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2505** having been printed, was taken up, read by title a second time.

Senator Kotowski offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2505

AMENDMENT NO. 1. Amend Senate Bill 2505 on page 1, line 11, by replacing "The" with "Subject to appropriation, the".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2506** having been printed, was taken up, read by title a second time.

Senator Kotowski offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2506

AMENDMENT NO. 1. Amend Senate Bill 2506 on page 2, line 11, after the period, by inserting the following: "If the Director requires a facility to use the amount of a penalty for the purpose of implementing a directed plan of correction as provided in this subsection, it is the Department's responsibility to ensure that the facility in fact uses the amount of the penalty for that purpose.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Murphy, **Senate Bill No. 2552** having been printed, was taken up, read by title a second time.

Senate Floor Amendment No. 1 was held in the Committee on Rules.

Senator Murphy offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2552

AMENDMENT NO. 2. Amend Senate Bill 2552 on page 1, by replacing line 1 with the following:

"AN ACT concerning State government."; and

on page 1, after line 3, by inserting the following:

"Section 2. The Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois is amended by adding Section 2310-186 as follows:

(20 ILCS 2310/2310-186 new)

Sec. 2310-186. Criminal history record checks; task force. The Department shall create a task force to examine the process used by State and local governmental agencies to conduct criminal history record checks as a condition of employment or approval to render provider services to such an agency. The task force shall be comprised of representatives from State and local agencies that require an applicant to undergo a fingerprint-based criminal history record check pursuant to State law or agencies that are contemplating such a requirement. The task force shall include but need not be limited to representatives from the Department of State Police, the Department of Children and Family Services, the Department of Financial and Professional Regulation, the Department of Public Health, the Department of Human Services, the Office of the Secretary of State, and the Illinois State Board of Education, and representatives from large regional school districts. The task force shall review and make recommendations to create a more centralized and coordinated process for conducting criminal history record checks in order to reduce duplication of effort and make better use of resources and more efficient use of taxpayer dollars.

The task force shall provide a plan to revise the criminal history record check process to the General Assembly by February 1, 2009. The plan shall address the following issues:

(1) Identification of any areas of concern that have been identified by stakeholders and task force members regarding State-mandated criminal history record checks.

(2) Evaluation of the feasibility of using an applicant's initial criminal history record information results for subsequent employment or licensing screening purposes.

(3) Evaluation of the feasibility of centralizing the screening of criminal history record information inquiry responses.

(4) Identification and evaluation of existing technologies that could be utilized to eliminate the need for a subsequent fingerprint inquiry each time an applicant changes employment or seeks a license requiring a criminal history record inquiry.

(5) Evaluation of what other states are doing to address similar concerns.

(6) Identification of programs serving vulnerable populations that do not currently require criminal

history record information to determine whether those programs should be included in a centralized screening of criminal history record information.

(7) Preparation of a report for the General Assembly proposing solutions that can be adopted to eliminate the duplication of applicant fingerprint submissions and the duplication of criminal records check response screening efforts and to minimize the costs of conducting State and FBI fingerprint-based inquiries in Illinois.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Cronin, **Senate Bill No. 2580,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Althoff, **Senate Bill No. 2584** having been printed, was taken up, read by title a second time.

The following amendments were offered in the Committee on Revenue, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 2584

AMENDMENT NO. 1. Amend Senate Bill 2584 on page 3, by replacing lines 2 through 4 with the following:

"certify a list of the electors and owners of record who may sign an objection petition under Section 27-55. The list must be comprised of each person for whom the municipality has received a return receipt for the notice mailed under subsection (c) of Section 27-30.".

Senator Althoff offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2584

AMENDMENT NO. 2. Amend Senate Bill 2584, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Property Tax Code is amended by changing Sections 27-30 and 27-55 as follows:

(35 ILCS 200/27-30)

Sec. 27-30. Manner of notice. Prior to or within 60 days after the adoption of the ordinance proposing the establishment of a special service area the municipality or county shall fix a time and a place for a public hearing. Notice of the hearing shall be given by publication and mailing, except that notice of a public hearing to propose the establishment of a special service area for weather modification purposes may be given by publication only. Notice by publication shall be given by publication at least once not less than 15 days prior to the hearing in a newspaper of general circulation within the municipality or county. Notice by mailing shall be given by depositing the notice in the United States mails addressed to the person or persons in whose name the general taxes for the last preceding year were paid on each property lying within the special service area. A notice shall be mailed not less than 10 days prior to the time set for the public hearing. In the event taxes for the last preceding year were not paid, the notice shall be sent to the person last listed on the tax rolls prior to that year as the owner of the property. A list of the names and addresses of the individuals and entities to whom the notice by mail was sent shall be made available at the public hearing.

(Source: P.A. 82-282; 88-455.)

(35 ILCS 200/27-55)

Sec. 27-55. Objection petition. If a petition signed by at least 51% of the electors residing within the special service area and by at least 51% of the owners of record of the land included within the boundaries of the special service area is filed with the municipal clerk or county clerk, as the case may be, within 60 days following the final adjournment of the public hearing, objecting to the creation of the special service district, the enlargement of the area, the levy or imposition of a tax or the issuance of bonds for the provision of special services to the area, or to a proposed increase in the tax rate, the district shall not be created or enlarged, or the tax shall not be levied or imposed nor the rate increased, or no bonds may be issued. The subject matter of the petition shall not be proposed relative to any signatories of the petition within the next 2 years. Each resident of the special service area registered to

vote at the time of the public hearing held with regard to the special service area shall be considered an elector. However, if certified documentation or a sworn affidavit is submitted along with an objection petition filed pursuant to this Section evidencing that an individual who is registered to vote has died or has permanently moved from the special service area and is no longer a resident of the special service area, then that individual shall not be counted as an elector for purposes of determining whether or not at least 51% of the electors residing within the special service area have signed the objection petition. Each person in whose name legal title to land included within the boundaries of the special service area is held according to the records of the county in which the land is located shall be considered an owner of record. Owners of record shall be determined at the time of the public hearing held with regard to a special service area. Land owned in the name of a land trust, corporation, estate or partnership shall be considered to have a single owner of record.
(Source: P.A. 82-640; 88-455.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Trotter, **Senate Bill No. 2595** having been printed, was taken up, read by title a second time.

Senator Trotter offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2595

AMENDMENT NO. 1. Amend Senate Bill 2595 on page 29, in line 22 by deleting "for".

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Trotter offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2595

AMENDMENT NO. 2. Amend Senate Bill 2595 by replacing everything after the enacting clause with the following:

"Section 5. The State Employees Group Insurance Act of 1971 is amended by changing Sections 3, 6.9, and 6.10 as follows:

(5 ILCS 375/3) (from Ch. 127, par. 523)

Sec. 3. Definitions. Unless the context otherwise requires, the following words and phrases as used in this Act shall have the following meanings. The Department may define these and other words and phrases separately for the purpose of implementing specific programs providing benefits under this Act.

(a) "Administrative service organization" means any person, firm or corporation experienced in the handling of claims which is fully qualified, financially sound and capable of meeting the service requirements of a contract of administration executed with the Department.

(b) "Annuitant" means (1) an employee who retires, or has retired, on or after January 1, 1966 on an immediate annuity under the provisions of Articles 2, 14 (including an employee who has elected to receive an alternative retirement cancellation payment under Section 14-108.5 of the Illinois Pension Code in lieu of an annuity), 15 (including an employee who has retired under the optional retirement program established under Section 15-158.2), paragraphs (2), (3), or (5) of Section 16-106, or Article 18 of the Illinois Pension Code; (2) any person who was receiving group insurance coverage under this Act as of March 31, 1978 by reason of his status as an annuitant, even though the annuity in relation to which such coverage was provided is a proportional annuity based on less than the minimum period of service required for a retirement annuity in the system involved; (3) any person not otherwise covered by this Act who has retired as a participating member under Article 2 of the Illinois Pension Code but is ineligible for the retirement annuity under Section 2-119 of the Illinois Pension Code; (4) the spouse of any person who is receiving a retirement annuity under Article 18 of the Illinois Pension Code and who is covered under a group health insurance program sponsored by a governmental employer other than the State of Illinois and who has irrevocably elected to waive his or her coverage under this Act and to have his or her spouse considered as the "annuitant" under this Act and not as a "dependent"; or (5) an employee who retires, or has retired, from a qualified position, as determined according to rules promulgated by the Director, under a qualified local government, a qualified rehabilitation facility, a

qualified domestic violence shelter or service, or a qualified child advocacy center. (For definition of "retired employee", see (p) post).

(b-5) "New SERS annuitant" means a person who, on or after January 1, 1998, becomes an annuitant, as defined in subsection (b), by virtue of beginning to receive a retirement annuity under Article 14 of the Illinois Pension Code (including an employee who has elected to receive an alternative retirement cancellation payment under Section 14-108.5 of that Code in lieu of an annuity), and is eligible to participate in the basic program of group health benefits provided for annuitants under this Act.

(b-6) "New SURS annuitant" means a person who (1) on or after January 1, 1998, becomes an annuitant, as defined in subsection (b), by virtue of beginning to receive a retirement annuity under Article 15 of the Illinois Pension Code, (2) has not made the election authorized under Section 15-135.1 of the Illinois Pension Code, and (3) is eligible to participate in the basic program of group health benefits provided for annuitants under this Act.

(b-7) "New TRS State annuitant" means a person who, on or after July 1, 1998, becomes an annuitant, as defined in subsection (b), by virtue of beginning to receive a retirement annuity under Article 16 of the Illinois Pension Code based on service as a teacher as defined in paragraph (2), (3), or (5) of Section 16-106 of that Code, and is eligible to participate in the basic program of group health benefits provided for annuitants under this Act.

(c) "Carrier" means (1) an insurance company, a corporation organized under the Limited Health Service Organization Act or the Voluntary Health Services Plan Act, a partnership, or other nongovernmental organization, which is authorized to do group life or group health insurance business in Illinois, or (2) the State of Illinois as a self-insurer.

(d) "Compensation" means salary or wages payable on a regular payroll by the State Treasurer on a warrant of the State Comptroller out of any State, trust or federal fund, or by the Governor of the State through a disbursing officer of the State out of a trust or out of federal funds, or by any Department out of State, trust, federal or other funds held by the State Treasurer or the Department, to any person for personal services currently performed, and ordinary or accidental disability benefits under Articles 2, 14, 15 (including ordinary or accidental disability benefits under the optional retirement program established under Section 15-158.2), paragraphs (2), (3), or (5) of Section 16-106, or Article 18 of the Illinois Pension Code, for disability incurred after January 1, 1966, or benefits payable under the Workers' Compensation or Occupational Diseases Act or benefits payable under a sick pay plan established in accordance with Section 36 of the State Finance Act. "Compensation" also means salary or wages paid to an employee of any qualified local government, qualified rehabilitation facility, qualified domestic violence shelter or service, or qualified child advocacy center.

(e) "Commission" means the State Employees Group Insurance Advisory Commission authorized by this Act. Commencing July 1, 1984, "Commission" as used in this Act means the Commission on Government Forecasting and Accountability as established by the Legislative Commission Reorganization Act of 1984.

(f) "Contributory", when referred to as contributory coverage, shall mean optional coverages or benefits elected by the member toward the cost of which such member makes contribution, or which are funded in whole or in part through the acceptance of a reduction in earnings or the foregoing of an increase in earnings by an employee, as distinguished from noncontributory coverage or benefits which are paid entirely by the State of Illinois without reduction of the member's salary.

(g) "Department" means any department, institution, board, commission, officer, court or any agency of the State government receiving appropriations and having power to certify payrolls to the Comptroller authorizing payments of salary and wages against such appropriations as are made by the General Assembly from any State fund, or against trust funds held by the State Treasurer and includes boards of trustees of the retirement systems created by Articles 2, 14, 15, 16 and 18 of the Illinois Pension Code. "Department" also includes the Illinois Comprehensive Health Insurance Board, the Board of Examiners established under the Illinois Public Accounting Act, and the Illinois Finance Authority.

(h) "Dependent", when the term is used in the context of the health and life plan, means a member's spouse and any unmarried child (1) from birth to age 19 including an adopted child, a child who lives with the member from the time of the filing of a petition for adoption until entry of an order of adoption, a stepchild or recognized child who lives with the member in a parent-child relationship, or a child who lives with the member if such member is a court appointed guardian of the child, or (2) age 19 to 23 enrolled as a full-time student in any accredited school, financially dependent upon the member, and eligible to be claimed as a dependent for income tax purposes, or (3) age 19 or over who is mentally or physically handicapped. For the purposes of item (2), an unmarried child age 19 to 23 who is a member of the United States Armed Services, including the Illinois National Guard, and is mobilized to active duty shall qualify as a dependent beyond the age of 23 and until the age of 25 and while a full-time

student for the amount of time spent on active duty between the ages of 19 and 23. The individual attempting to qualify for this additional time must submit written documentation of active duty service to the Director. The changes made by this amendatory Act of the 94th General Assembly apply only to individuals mobilized to active duty in the United States Armed Services, including the Illinois National Guard, on or after January 1, 2002. For the health plan only, the term "dependent" also includes any person enrolled prior to the effective date of this Section who is dependent upon the member to the extent that the member may claim such person as a dependent for income tax deduction purposes; no other such person may be enrolled. For the health plan only, the term "dependent" also includes any person who has received after June 30, 2000 an organ transplant and who is financially dependent upon the member and eligible to be claimed as a dependent for income tax purposes.

(i) "Director" means the Director of the Illinois Department of Central Management Services or of any successor agency designated to administer this Act.

(j) "Eligibility period" means the period of time a member has to elect enrollment in programs or to select benefits without regard to age, sex or health.

(k) "Employee" means and includes each officer or employee in the service of a department who (1) receives his compensation for service rendered to the department on a warrant issued pursuant to a payroll certified by a department or on a warrant or check issued and drawn by a department upon a trust, federal or other fund or on a warrant issued pursuant to a payroll certified by an elected or duly appointed officer of the State or who receives payment of the performance of personal services on a warrant issued pursuant to a payroll certified by a Department and drawn by the Comptroller upon the State Treasurer against appropriations made by the General Assembly from any fund or against trust funds held by the State Treasurer, and (2) is employed full-time or part-time in a position normally requiring actual performance of duty during not less than 1/2 of a normal work period, as established by the Director in cooperation with each department, except that persons elected by popular vote will be considered employees during the entire term for which they are elected regardless of hours devoted to the service of the State, and (3) except that "employee" does not include any person who is not eligible by reason of such person's employment to participate in one of the State retirement systems under Articles 2, 14, 15 (either the regular Article 15 system or the optional retirement program established under Section 15-158.2) or 18, or under paragraph (2), (3), or (5) of Section 16-106, of the Illinois Pension Code, but such term does include persons who are employed during the 6 month qualifying period under Article 14 of the Illinois Pension Code. Such term also includes any person who (1) after January 1, 1966, is receiving ordinary or accidental disability benefits under Articles 2, 14, 15 (including ordinary or accidental disability benefits under the optional retirement program established under Section 15-158.2), paragraphs (2), (3), or (5) of Section 16-106, or Article 18 of the Illinois Pension Code, for disability incurred after January 1, 1966, (2) receives total permanent or total temporary disability under the Workers' Compensation Act or Occupational Disease Act as a result of injuries sustained or illness contracted in the course of employment with the State of Illinois, or (3) is not otherwise covered under this Act and has retired as a participating member under Article 2 of the Illinois Pension Code but is ineligible for the retirement annuity under Section 2-119 of the Illinois Pension Code. However, a person who satisfies the criteria of the foregoing definition of "employee" except that such person is made ineligible to participate in the State Universities Retirement System by clause (4) of subsection (a) of Section 15-107 of the Illinois Pension Code is also an "employee" for the purposes of this Act. "Employee" also includes any person receiving or eligible for benefits under a sick pay plan established in accordance with Section 36 of the State Finance Act. "Employee" also includes (i) each officer or employee in the service of a qualified local government, including persons appointed as trustees of sanitary districts regardless of hours devoted to the service of the sanitary district, (ii) each employee in the service of a qualified rehabilitation facility, (iii) each full-time employee in the service of a qualified domestic violence shelter or service, and (iv) each full-time employee in the service of a qualified child advocacy center, as determined according to rules promulgated by the Director.

(l) "Member" means an employee, annuitant, retired employee or survivor.

(m) "Optional coverages or benefits" means those coverages or benefits available to the member on his or her voluntary election, and at his or her own expense.

(n) "Program" means the group life insurance, health benefits and other employee benefits designed and contracted for by the Director under this Act.

(o) "Health plan" means a health benefits program offered by the State of Illinois for persons eligible for the plan.

(p) "Retired employee" means any person who would be an annuitant as that term is defined herein but for the fact that such person retired prior to January 1, 1966. Such term also includes any person formerly employed by the University of Illinois in the Cooperative Extension Service who would be an

annuitant but for the fact that such person was made ineligible to participate in the State Universities Retirement System by clause (4) of subsection (a) of Section 15-107 of the Illinois Pension Code.

(q) "Survivor" means a person receiving an annuity as a survivor of an employee or of an annuitant. "Survivor" also includes: (1) the surviving dependent of a person who satisfies the definition of "employee" except that such person is made ineligible to participate in the State Universities Retirement System by clause (4) of subsection (a) of Section 15-107 of the Illinois Pension Code; (2) the surviving dependent of any person formerly employed by the University of Illinois in the Cooperative Extension Service who would be an annuitant except for the fact that such person was made ineligible to participate in the State Universities Retirement System by clause (4) of subsection (a) of Section 15-107 of the Illinois Pension Code; and (3) the surviving dependent of a person who was an annuitant under this Act by virtue of receiving an alternative retirement cancellation payment under Section 14-108.5 of the Illinois Pension Code.

(q-2) "SERS" means the State Employees' Retirement System of Illinois, created under Article 14 of the Illinois Pension Code.

(q-3) "SURS" means the State Universities Retirement System, created under Article 15 of the Illinois Pension Code.

(q-4) "TRS" means the Teachers' Retirement System of the State of Illinois, created under Article 16 of the Illinois Pension Code.

(q-5) "New SERS survivor" means a survivor, as defined in subsection (q), whose annuity is paid under Article 14 of the Illinois Pension Code and is based on the death of (i) an employee whose death occurs on or after January 1, 1998, or (ii) a new SERS annuitant as defined in subsection (b-5). "New SERS survivor" includes the surviving dependent of a person who was an annuitant under this Act by virtue of receiving an alternative retirement cancellation payment under Section 14-108.5 of the Illinois Pension Code.

(q-6) "New SURS survivor" means a survivor, as defined in subsection (q), whose annuity is paid under Article 15 of the Illinois Pension Code and is based on the death of (i) an employee whose death occurs on or after January 1, 1998, or (ii) a new SURS annuitant as defined in subsection (b-6).

(q-7) "New TRS State survivor" means a survivor, as defined in subsection (q), whose annuity is paid under Article 16 of the Illinois Pension Code and is based on the death of (i) an employee who is a teacher as defined in paragraph (2), (3), or (5) of Section 16-106 of that Code and whose death occurs on or after July 1, 1998, or (ii) a new TRS State annuitant as defined in subsection (b-7).

(r) "Medical services" means the services provided within the scope of their licenses by practitioners in all categories licensed under the Medical Practice Act of 1987.

(s) "Unit of local government" means any county, municipality, township, school district (including a combination of school districts under the Intergovernmental Cooperation Act), special district or other unit, designated as a unit of local government by law, which exercises limited governmental powers or powers in respect to limited governmental subjects, any not-for-profit association with a membership that primarily includes townships and township officials, that has duties that include provision of research service, dissemination of information, and other acts for the purpose of improving township government, and that is funded wholly or partly in accordance with Section 85-15 of the Township Code; any not-for-profit corporation or association, with a membership consisting primarily of municipalities, that operates its own utility system, and provides research, training, dissemination of information, or other acts to promote cooperation between and among municipalities that provide utility services and for the advancement of the goals and purposes of its membership; the Southern Illinois Collegiate Common Market, which is a consortium of higher education institutions in Southern Illinois; the Illinois Association of Park Districts; and any hospital provider that is owned by a county that has 100 or fewer hospital beds and has not already joined the program. "Qualified local government" means a unit of local government approved by the Director and participating in a program created under subsection (i) of Section 10 of this Act.

(t) "Qualified rehabilitation facility" means any not-for-profit organization that is accredited by the Commission on Accreditation of Rehabilitation Facilities or certified by the Department of Human Services (as successor to the Department of Mental Health and Developmental Disabilities) to provide services to persons with disabilities and which receives funds from the State of Illinois for providing those services, approved by the Director and participating in a program created under subsection (j) of Section 10 of this Act.

(u) "Qualified domestic violence shelter or service" means any Illinois domestic violence shelter or service and its administrative offices funded by the Department of Human Services (as successor to the Illinois Department of Public Aid), approved by the Director and participating in a program created under subsection (k) of Section 10.

(v) "TRS benefit recipient" means a person who:

(1) is not a "member" as defined in this Section; and

(2) is receiving a monthly benefit or retirement annuity under Article 16 of the Illinois Pension Code; and

(3) either (i) has at least 8 years of creditable service under Article 16 of the Illinois Pension Code, or (ii) was enrolled in the health insurance program offered under that Article on January 1, 1996, or (iii) is the survivor of a benefit recipient who had at least 8 years of creditable service under Article 16 of the Illinois Pension Code or was enrolled in the health insurance program offered under that Article on the effective date of this amendatory Act of 1995, or (iv) is a recipient or survivor of a recipient of a disability benefit under Article 16 of the Illinois Pension Code.

(w) "TRS dependent beneficiary" means a person who:

(1) is not a "member" or "dependent" as defined in this Section; and

(2) is a TRS benefit recipient's: (A) spouse, (B) dependent parent who is receiving at least half of his or her support from the TRS benefit recipient, or (C) unmarried natural or adopted child who is (i) under age 19, or (ii) enrolled as a full-time student in an accredited school, financially dependent upon the TRS benefit recipient, eligible to be claimed as a dependent for income tax purposes, and either is under age 24 or was, on January 1, 1996, participating as a dependent beneficiary in the health insurance program offered under Article 16 of the Illinois Pension Code, or (iii) age 19 or over who is mentally or physically handicapped.

(x) "Military leave with pay and benefits" refers to individuals in basic training for reserves, special/advanced training, annual training, emergency call up, or activation by the President of the United States with approved pay and benefits.

(y) "Military leave without pay and benefits" refers to individuals who enlist for active duty in a regular component of the U.S. Armed Forces or other duty not specified or authorized under military leave with pay and benefits.

(z) "Community college benefit recipient" means a person who:

(1) is not a "member" as defined in this Section; and

(2) is receiving a monthly survivor's annuity or retirement annuity under Article 15 of the Illinois Pension Code; and

(3) either (i) was a full-time employee of a community college district or an association of community college boards created under the Public Community College Act ~~(other than an employee whose last employer under Article 15 of the Illinois Pension Code was a community college district subject to Article VII of the Public Community College Act)~~ and was eligible to participate in a group health benefit plan as an employee during the time of employment with a community college district ~~(other than a community college district subject to Article VII of the Public Community College Act)~~ or an association of community college boards, or (ii) is the survivor of a person described in item (i).

(aa) "Community college dependent beneficiary" means a person who:

(1) is not a "member" or "dependent" as defined in this Section; and

(2) is a community college benefit recipient's: (A) spouse, (B) dependent parent who is receiving at least half of his or her support from the community college benefit recipient, or (C) unmarried natural or adopted child who is (i) under age 19, or (ii) enrolled as a full-time student in an accredited school, financially dependent upon the community college benefit recipient, eligible to be claimed as a dependent for income tax purposes and under age 23, or (iii) age 19 or over and mentally or physically handicapped.

(bb) "Qualified child advocacy center" means any Illinois child advocacy center and its administrative offices funded by the Department of Children and Family Services, as defined by the Children's Advocacy Center Act (55 ILCS 80/), approved by the Director and participating in a program created under subsection (n) of Section 10.

(Source: P.A. 94-32, eff. 6-15-05; 94-82, eff. 1-1-06; 94-860, eff. 6-16-06; 95-331, eff. 8-21-07; 95-632, eff. 9-25-07.)

(5 ILCS 375/6.9)

Sec. 6.9. Health benefits for community college benefit recipients and community college dependent beneficiaries.

(a) Purpose. It is the purpose of <u>these</u> ~~this~~ amendatory <u>Acts</u> ~~Act~~ of 1997 <u>and 2008</u> to establish a uniform program of health benefits for community college benefit recipients and their dependent beneficiaries under the administration of the Department of Central Management Services.

(b) Creation of program. Beginning July 1, 1999, the Department of Central Management Services shall be responsible for administering a program of health benefits for community college benefit

recipients and community college dependent beneficiaries under this Section. The State Universities Retirement System and the boards of trustees of the various community college districts shall cooperate with the Department in this endeavor.

Beginning July 1, 2009, the Department of Central Management Services shall be responsible for administering a program of health benefits for community college benefit recipients and community college dependent beneficiaries subject to Article VII of the Public Community College Act. The State Universities Retirement System and the boards of trustees of the community college districts shall cooperate with the Department in this endeavor.

(c) Eligibility. All community college benefit recipients and community college dependent beneficiaries shall be eligible to participate in the program established under this Section, without any interruption or delay in coverage or limitation as to pre-existing medical conditions. Eligibility to participate shall be determined by the State Universities Retirement System. Eligibility information shall be communicated to the Department of Central Management Services in a format acceptable to the Department.

(d) Coverage. The health benefit coverage provided under this Section shall be a program of health, dental, and vision benefits.

The program of health benefits under this Section may include any or all of the benefit limitations, including but not limited to a reduction in benefits based on eligibility for federal medicare benefits, that are provided under subsection (a) of Section 6 of this Act for other health benefit programs under this Act.

(e) Insurance rates and premiums. The Director shall determine the insurance rates and premiums for community college benefit recipients and community college dependent beneficiaries. Rates and premiums may be based in part on age and eligibility for federal Medicare coverage. The Director shall also determine premiums that will allow for the establishment of an actuarially sound reserve for this program.

The cost of health benefits under the program shall be paid as follows:

(1) For a community college benefit recipient, up to 75% of the total insurance rate shall be paid from the Community College Health Insurance Security Fund.

(2) The balance of the rate of insurance, including the entire premium for any coverage for community college dependent beneficiaries that has been elected, shall be paid by deductions authorized by the community college benefit recipient to be withheld from his or her monthly annuity or benefit payment from the State Universities Retirement System; except that (i) if the balance of the cost of coverage exceeds the amount of the monthly annuity or benefit payment, the difference shall be paid directly to the State Universities Retirement System by the community college benefit recipient, and (ii) all or part of the balance of the cost of coverage may, at the option of the board of trustees of the community college district, be paid to the State Universities Retirement System by the board of the community college district from which the community college benefit recipient retired. The State Universities Retirement System shall promptly deposit all moneys withheld by or paid to it under this subdivision (e)(2) into the Community College Health Insurance Security Fund. These moneys shall not be considered assets of the State Universities Retirement System.

(f) Financing. All revenues arising from the administration of the health benefit program established under this Section shall be deposited into the Community College Health Insurance Security Fund, which is hereby created as a nonappropriated trust fund to be held outside the State Treasury, with the State Treasurer as custodian. Any interest earned on moneys in the Community College Health Insurance Security Fund shall be deposited into the Fund.

Moneys in the Community College Health Insurance Security Fund shall be used only to pay the costs of the health benefit program established under this Section, including associated administrative costs and the establishment of a program reserve. Beginning January 1, 1999, the Department of Central Management Services may make expenditures from the Community College Health Insurance Security Fund for those costs.

(g) Contract for benefits. The Director shall by contract, self-insurance, or otherwise make available the program of health benefits for community college benefit recipients and their community college dependent beneficiaries that is provided for in this Section. The contract or other arrangement for the provision of these health benefits shall be on terms deemed by the Director to be in the best interest of the State of Illinois and the community college benefit recipients based on, but not limited to, such criteria as administrative cost, service capabilities of the carrier or other contractor, and the costs of the benefits.

(h) Continuation of program. It is the intention of the General Assembly that the program of health benefits provided under this Section be maintained on an ongoing, affordable basis. The program of

health benefits provided under this Section may be amended by the State and is not intended to be a pension or retirement benefit subject to protection under Article XIII, Section 5 of the Illinois Constitution.

(i) Other health benefit plans. A health benefit plan provided by a community college district ~~(other than a community college district subject to Article VII of the Public Community College Act)~~ under the terms of a collective bargaining agreement in effect on or prior to the effective date of this amendatory Act of 1997 shall continue in force according to the terms of that agreement, unless otherwise mutually agreed by the parties to that agreement and the affected retiree. A community college benefit recipient or community college dependent beneficiary whose coverage under such a plan expires shall be eligible to begin participating in the program established under this Section without any interruption or delay in coverage or limitation as to pre-existing medical conditions.

A health benefit plan provided by a community college district subject to Article VII of the Public Community College Act under the terms of a collective bargaining agreement in effect on or prior to the effective date of this amendatory Act of 2008 shall continue in force according to the terms of that agreement, unless otherwise mutually agreed by the parties to that agreement and the affected retiree. A community college benefit recipient or community college dependent beneficiary whose coverage under such a plan expires shall be eligible to begin participating in the program established under this Section without any interruption or delay in coverage or limitation as to pre-existing medical conditions.

This Act does not prohibit any community college district from offering additional health benefits for its retirees or their dependents or survivors.

(j) The Community College Health Insurance Security Fund Committee is established. The Committee shall consist of 11 members appointed as follows:

(1) One member appointed by the Governor.

(2) One member appointed by the President of the Senate.

(3) One member appointed by the Minority Leader of the Senate.

(4) One member appointed by the Speaker of the House of Representatives.

(5) One member appointed by the Minority Leader of the House of Representatives.

(6) One member appointed by and representing an education labor organization in Cook County.

(7) One member appointed by and representing an education labor organization in the counties of DuPage, Lake, Kane, and Will.

(8) One member appointed by and representing an education labor organization primarily outside of Cook County and the counties of DuPage, Lake, Kane, and Will.

(9) One member appointed by and representing the Community College President's Council.

(10) One member appointed by and representing the Community College Trustees Association.

(11) One member appointed by and representing a statewide retiree organization.

Committee members shall not be compensated. Nothing in this Act shall prevent a Committee member from also being a member of the Board of Trustees of a community college district. The Committee shall convene at least 2 times each year and more frequently as needed.

The Committee shall consider and make recommendations on issues affecting the program of health benefits provided under this Section. Recommendations of the Committee shall be based on the majority vote of the members of the Committee.

The Committee chair shall be selected by the Committee from among the members.

If the Community College Health Insurance Security Fund experiences a deficit balance based upon the contribution and subsidy rates established in Section 6.10 of this Act and Section 1.4 of the State Pension Funds Continuing Appropriation Act for fiscal year 2009 and thereafter, the Committee shall make recommendations for adjustments to the funding sources established under those Sections.

(Source: P.A. 90-497, eff. 8-18-97; 90-655, eff. 7-30-98.)

(5 ILCS 375/6.10)

Sec. 6.10. Contributions to the Community College Health Insurance Security Fund.

(a) Beginning January 1, 1999, every active contributor of the State Universities Retirement System (established under Article 15 of the Illinois Pension Code) who (1) is a full-time employee of a community college district (other than a community college district subject to Article VII of the Public Community College Act) or an association of community college boards and (2) is not an employee as defined in Section 3 of this Act shall make contributions toward the cost of community college annuitant and survivor health benefits at the rate of 0.75% ~~0.50%~~ of salary.

Beginning January 1, 2009, every active contributor of the State Universities Retirement System established under Article 15 of the Illinois Pension Code who (1) is a full-time employee of a community college district, including a community college district subject to Article VII of the Public Community College Act, or an association of community college boards and (2) is not an employee as

defined in Section 3 of this Act shall make contributions toward the cost of community college annuitant and survivor health benefits at the rate of 0.75% of salary.

These contributions shall be deducted by the employer and paid to the State Universities Retirement System as service agent for the Department of Central Management Services. The System may use the same processes for collecting the contributions required by this subsection that it uses to collect the contributions received from those employees under Section 15-157 of the Illinois Pension Code. An employer may agree to pick up or pay the contributions required under this subsection on behalf of the employee; such contributions shall be deemed to have been paid by the employee.

The State Universities Retirement System shall promptly deposit all moneys collected under this subsection (a) into the Community College Health Insurance Security Fund created in Section 6.9 of this Act. The moneys collected under this Section shall be used only for the purposes authorized in Section 6.9 of this Act and shall not be considered to be assets of the State Universities Retirement System. Contributions made under this Section are not transferable to other pension funds or retirement systems and are not refundable upon termination of service.

(b) Beginning January 1, 1999, every community college district (other than a community college district subject to Article VII of the Public Community College Act) or association of community college boards that is an employer under the State Universities Retirement System shall contribute toward the cost of the community college health benefits provided under Section 6.9 of this Act an amount equal to 0.50% of the salary paid to its full-time employees who participate in the State Universities Retirement System and are not members as defined in Section 3 of this Act.

Beginning January 1, 2009, every community college district subject to Article VII of the Public Community College Act or association of community college boards that is an employer under the State Universities Retirement System shall contribute toward the cost of the community college health benefits provided under Section 6.9 of this Act an amount equal to 0.75% of the salary paid to its full-time employees who participate in the State Universities Retirement System and are not members as defined in Section 3 of this Act.

These contributions shall be paid by the employer to the State Universities Retirement System as service agent for the Department of Central Management Services. The System may use the same processes for collecting the contributions required by this subsection that it uses to collect the contributions received from those employers under Section 15-155 of the Illinois Pension Code.

The State Universities Retirement System shall promptly deposit all moneys collected under this subsection (b) into the Community College Health Insurance Security Fund created in Section 6.9 of this Act. The moneys collected under this Section shall be used only for the purposes authorized in Section 6.9 of this Act and shall not be considered to be assets of the State Universities Retirement System. Contributions made under this Section are not transferable to other pension funds or retirement systems and are not refundable upon termination of service.

The Department of Healthcare and Family Services, or any successor agency designated to procure healthcare contracts pursuant to this Act, is authorized to establish funds, separate accounts provided by any bank or banks as defined by the Illinois Banking Act, or separate accounts provided by any savings and loan association or associations as defined by the Illinois Savings and Loan Act of 1985 to be held by the Director, outside the State treasury, for the purpose of receiving the transfer of moneys from the Community College Health Insurance Security Fund. The Department may promulgate rules further defining the methodology for the transfers. Any interest earned by moneys in the funds or accounts shall inure to the Community College Health Insurance Security Fund. The transferred moneys, and interest accrued thereon, shall be used exclusively for transfers to administrative service organizations or their financial institutions for payments of claims to claimants and providers under the self-insurance health plan. The transferred moneys, and interest accrued thereon, shall not be used for any other purpose including, but not limited to, reimbursement of administration fees due the administrative service organization pursuant to its contract or contracts with the Department.

(c) On or before November 15 of each year, the Board of Trustees of the State Universities Retirement System shall certify to the Governor, the Director of Central Management Services, and the State Comptroller its estimate of the total amount of contributions to be paid under subsection (a) of this Section for the next fiscal year. Beginning in fiscal year 2008, the amount certified shall be decreased or increased each year by the amount that the actual active employee contributions either fell short of or exceeded the estimate used by the Board in making the certification for the previous fiscal year. The State Universities Retirement System shall calculate the amount of actual active employee contributions in fiscal years 1999 through 2005. Based upon this calculation, the fiscal year 2008 certification shall include an amount equal to the cumulative amount that the actual active employee contributions either fell short of or exceeded the estimate used by the Board in making the certification for those fiscal years.

The certification shall include a detailed explanation of the methods and information that the Board relied upon in preparing its estimate. As soon as possible after the effective date of this Section, the Board shall submit its estimate for fiscal year 1999.

(d) Beginning in fiscal year 1999, on the first day of each month, or as soon thereafter as may be practical, the State Treasurer and the State Comptroller shall transfer from the General Revenue Fund to the Community College Health Insurance Security Fund 1/12 of the annual amount appropriated for that fiscal year to the State Comptroller for deposit into the Community College Health Insurance Security Fund under Section 1.4 of the State Pension Funds Continuing Appropriation Act.

(e) Except where otherwise specified in this Section, the definitions that apply to Article 15 of the Illinois Pension Code apply to this Section.

(Source: P.A. 94-839, eff. 6-6-06; 95-632, eff. 9-25-07.)

Section 10. The State Pension Funds Continuing Appropriation Act is amended by changing Section 1.4 as follows:

(40 ILCS 15/1.4)

Sec. 1.4. Appropriations for the Community College Health Insurance Security Fund. Beginning in State fiscal year 1999, there is hereby appropriated, on a continuing annual basis, from the General Revenue Fund to the State Comptroller for deposit into the Community College Health Insurance Security Fund, an amount equal to the amount certified by the Board of Trustees of the State Universities Retirement System under subsection (c) of Section 6.10 of the State Employees Group Insurance Act of 1971 as the estimated total amount of contributions to be paid under subsection (a) of that Section 6.10 in that fiscal year. The moneys appropriated under this Section 1.4 shall be deposited into the Community College Health Insurance Security Fund and used only for the purposes authorized in Section 6.9 of the State Employees Group Insurance Act of 1971. The transfer of funds by any constitutional officer or legislative body for any other purpose or program is specifically prohibited.

(Source: P.A. 90-497, eff. 8-18-97.)

Section 90. The State Mandates Act is amended by adding Section 8.32 as follows:

(30 ILCS 805/8.32 new)

Sec. 8.32. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 95th General Assembly.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Delgado, **Senate Bill No. 2596** having been printed, was taken up, read by title a second time.

The following amendments were offered in the Committee on Judiciary Criminal Law, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 2596

AMENDMENT NO. 1. Amend Senate Bill 2596 on page 18, immediately below line 6, by inserting the following:

"(7) A motorcycle.".

Senator Delgado offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2596

AMENDMENT NO. 2. Amend Senate Bill 2596, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Criminal Code of 1961 is amended by changing Section 12-5 as follows:

(720 ILCS 5/12-5) (from Ch. 38, par. 12-5)

Sec. 12-5. Reckless conduct.

(a) A person who causes bodily harm to or endangers the bodily safety of an individual by any means, commits reckless conduct if he or she performs recklessly the acts that cause the harm or endanger safety, whether they otherwise are lawful or unlawful.

(a-5) A person who causes great bodily harm or permanent disability or disfigurement by any means, commits reckless conduct if he or she performs recklessly the acts that cause the harm, whether they otherwise are lawful or unlawful.

(a-10) A person who, while operating a motor vehicle, causes bodily harm to or endangers the bodily safety of a vulnerable user of the public way commits reckless conduct if he or she performs recklessly the acts that cause the harm or endanger safety, whether they otherwise are lawful or unlawful.

(a-15) A person who, while operating a motor vehicle, causes great bodily harm or permanent disability or disfigurement to a vulnerable user of the public way commits reckless conduct if he or she performs recklessly the acts that cause the harm, whether they otherwise are lawful or unlawful.

(a-20) For purposes of subsections (a-10) and (a-15), "vulnerable user of the public way" means any of the following persons who are lawfully present on the roadway or shoulder of a public way:

(1) pedestrians,

(2) highway workers,

(3) persons engaged in equine activities, as defined in the Equine Activity Liability Act,

(4) persons operating a farm tractor or other implement of husbandry, as defined in the Illinois Vehicle Code, or

(5) persons operating or using a motorcycle, bicycle, scooter, skateboard, roller skates, or in-line skates.

(b) Sentence.

Reckless conduct under subsection (a) or subsection (a-10) is a Class A misdemeanor. Reckless conduct under subsection (a-5) or subsection (a-15) is a Class 4 felony.
(Source: P.A. 93-710, eff. 1-1-05.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Cronin, **Senate Bill No. 2626** having been printed, was taken up, read by title a second time.

Senator Cronin offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2626

AMENDMENT NO. 1. Amend Senate Bill 2626 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois State Agency Historic Resources Preservation Act is amended by changing Sections 3 and 4 and by adding Section 7 as follows:

(20 ILCS 3420/3) (from Ch. 127, par. 133c23)

Sec. 3. Definitions.

(a) "Director" means the Director of Historic Preservation who shall serve as the State Historic Preservation Officer.

(b) "Agency" shall have the same meaning as in Section 1-20 of the Illinois Administrative Procedure Act, and shall specifically include all agencies and entities made subject to such Act by any State statute.

(c) "Historic resource" means any property which is either publicly or privately held and which:

(1) is listed in the National Register of Historic Places (hereafter "National Register");

(2) has been formally determined ~~by the Director~~ to be eligible for listing in the National Register ~~as defined in Section 106 of Title 16 of the United States Code~~;

(3) has been nominated by the Director and the Illinois Historic Sites Advisory Council for listing in the National Register;

(4) meets one or more criteria for listing in the National Register~~, as determined by the Director~~; ~~or~~

(5) is listed in the Illinois Register of Historic Places.

(d) "Adverse effect" means:

(1) destruction or alteration of all or part of an historic resource;

(2) isolation or alteration of the surrounding environment of an historic resource;

(3) introduction of visual, audible, or atmospheric elements which are out of character with an historic resource or which alter its setting;

(4) neglect or improper utilization of an historic resource which results in its deterioration or destruction; ~~or~~

(5) transfer or sale of an historic resource to any public or private entity without the inclusion of adequate conditions or restrictions regarding preservation, maintenance, or use; or ~~.~~

(6) where the project as proposed is not in conformance with the Secretary of the Interior's Standards for Historic Preservation.

(e) "Comment" means the written finding by the Director of the effect of a State undertaking on an historic resource.

(f) "Undertaking" means any project, activity, or program that can result in changes in the character or use of historic property, if any historic property is located in the area of potential effects. The project, activity or program shall be under the direct or indirect jurisdiction of a State agency or licensed or assisted by a State agency. An undertaking includes, but is not limited to, action which is:

(1) directly undertaken by a State agency;

(2) supported in whole or in part through State contracts, grants, subsidies, loan guarantees, or any other form of direct or indirect funding assistance; or

(3) carried out pursuant to a State lease, permit, license, certificate, approval, or other form of entitlement or permission or pursuant to a requirement that a State Agency be notified about action taken or to be taken.

(g) "Committee" means the Historic Preservation Mediation Committee.

(h) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(i) "Private undertaking" means any undertaking that does not receive public funding or is not on public lands.

(j) "High probability area" means any occurrence of Cahokia Alluvium, Carmi Member of the Equality Formation, Grayslake Peat, Parkland Sand, Peyton Colluvium, the Batavia Member of the Henry Formation, or the Mackinaw Member, as mapped by Lineback et al. (1979) at a scale of 1-500,000 within permanent stream floodplains and including

(1) 500 yards of the adjoining bluffline crest of the Fox, Illinois, Kankakee, Kaskaskia, Mississippi, Ohio, Rock and Wabash Rivers and 300 yards of the adjoining bluffline crest of all other rivers or

(2) a 500 yard wide area along the shore of Lake Michigan abutting the high water mark.

(Source: P.A. 87-717; 87-739; 87-847; 88-45.)

(20 ILCS 3420/4) (from Ch. 127, par. 133c24)

Sec. 4. State agency undertakings.

(a) As early in the planning process as may be practicable and prior to the approval of the final design or plan of any undertaking by a State agency, or prior to the funding of any undertaking by a State agency, or prior to an action of approval or entitlement of any private undertaking by a State agency, written notice of the project shall be given to the Director either by the State agency or the recipients of its funds, permits or licenses. The State agency shall consult with the Director to determine the documentation requirements necessary for identification and treatment of historic resources. For the purposes of identification and evaluation of historic resources, the Director may require archaeological and historic investigations. Responsibility for notice and documentation may be delegated by the State agency to a local or private designee.

(b) Within 30 days after receipt of complete and correct documentation of a proposed undertaking, the Director shall review and comment to the agency on the likelihood that the undertaking will have an adverse effect on a historic resource. In the case of a private undertaking, the Director shall, not later than 30 days following the receipt of an application with complete documentation of the undertaking, either approve that application allowing the undertaking to proceed or tender to the applicant a written statement setting forth the reasons for the requirement of an archaeological investigation. If there is no action within 30 days after the filing of the application with the complete documentation of the undertaking, the applicant may deem the application approved and may proceed with the undertaking. Thereafter, all requirements for archaeological investigations are waived under this Act.

(c) If the Director finds that an undertaking will adversely effect an historic resource or is inconsistent with agency policies, the State agency shall consult with the Director and shall discuss alternatives to the proposed undertaking which could eliminate, minimize, or mitigate its adverse effect. During the consultation process, the State agency shall explore all feasible and prudent plans which eliminate, minimize, or mitigate adverse effects on historic resources. Grantees, permittees, licensees, or other

parties in interest and representatives of national, State, and local units of government and public and private organizations may participate in the consultation process. The process may involve on-site inspections and public informational meetings pursuant to regulations issued by the Historic Preservation Agency.

(d) The State agency and the Director may agree that there is a feasible and prudent alternative which eliminates, minimizes, or mitigates the adverse effect of the undertaking. Upon such agreement, or if the State agency and the Director agree that there are no feasible and prudent alternatives which eliminate, minimize, or mitigate the adverse effect, the Director shall prepare a Memorandum of Agreement describing the alternatives or stating the finding. The State agency may proceed with the undertaking once a Memorandum of Agreement has been signed by both the State agency and the Director.

(e) After the consultation process, the Director and the State agency may fail to agree on the existence of a feasible and prudent alternative which would eliminate, minimize, or mitigate the adverse effect of the undertaking on the historic resource. If no agreement is reached, the agency shall call a public meeting in the county where the undertaking is proposed within 60 days. If, within 14 days following conclusion of the public meeting, the State agency and the Director fail to agree on a feasible and prudent alternative, the proposed undertaking, with supporting documentation, shall be submitted to the Historic Preservation Mediation Committee. The document shall be sufficient to identify each alternative considered by the Agency and the Director during the consultation process and the reason for its rejection.

(f) The Mediation Committee shall consist of the Director and 5 persons appointed by the Director for terms of 3 years each, each of whom shall be no lower in rank than a division chief and each of whom shall represent a different State agency. An agency that is a party to mediation shall be notified of all hearings and deliberations and shall have the right to participate in deliberations as a non-voting member of the Committee. Within 30 days after submission of the proposed undertaking, the Committee shall meet with the Director and the submitting agency to review each alternative considered by the State agency and the Director and to evaluate the existence of a feasible and prudent alternative. In the event that the Director and the submitting agency continue to disagree, the Committee shall provide a statement of findings or comments setting forth an alternative to the proposed undertaking or stating the finding that there is no feasible or prudent alternative. The State agency shall consider the written comments of the Committee and shall respond in writing to the Committee before proceeding with the undertaking.

(g) When an undertaking is being reviewed pursuant to Section 106 of the National Historic Preservation Act of 1966, the procedures of this law shall not apply and any review or comment by the Director on such undertaking shall be within the framework or procedures of the federal law. When an undertaking involves a structure listed on the Illinois Register of Historic Places, the rules and procedures of the Illinois Historic Preservation Act shall apply. This subsection shall not prevent the Illinois Historic Preservation Agency from entering into an agreement with the Advisory Council on Historic Preservation pursuant to Section 106 of the National Historic Preservation Act to substitute this Act and its procedures for procedures set forth in Council regulations found in 36 C.F.R. Part 800.7. A State undertaking that is necessary to prevent an immediate and imminent threat to life or property shall be exempt from the requirements of this Act. Where possible, the Director shall be consulted in the determination of the exemption. In all cases, the agency shall provide the Director with a statement of the reasons for the exemption and shall have an opportunity to comment on the exemption. The statement and the comments of the Director shall be included in the annual report of the Historic Preservation Agency as a guide to future actions. The provisions of this Act do not apply to undertakings pursuant to the Illinois Oil and Gas Act, the Surface-Mined Land Conservation and Reclamation Act and the Surface Coal Mining Land Conservation and Reclamation Act.

(h) The Director, at the Director's discretion, or upon written request by any person and when the Director agrees that there is a substantial public interest in the matter, may hold a public hearing before (1) making a finding that an undertaking will not adversely affect an historic resource, (2) making a finding that there is no prudent or feasible alternative, or (3) entering into or modifying a Memorandum of Agreement. The Director and the State Agency shall consider the matters presented at the hearing and shall, in written form, document their consideration of principal issues raised in the hearing.

(Source: P.A. 86-707; 87-739; 87-847; 87-895.)

(20 ILCS 3420/7 new)

Sec. 7. Standing. Any person or entity shall have standing and the right to enforce the provisions of this Act. In case any building or structure is demolished, constructed, reconstructed, altered, repaired, converted, or maintained in violation of this Act, any person or entity that shows that his, her, or its property or person or other interest will be substantially affected by the alleged violation, in addition to

other remedies, may institute any appropriate action or proceeding to prevent the unlawful construction, reconstruction, alteration, repair, conversion, or maintenance to restrain, correct, or abate the violation.

In any action or proceeding for a purpose mentioned in this Section, the court with jurisdiction of such action or proceeding has the power to and in its discretion may issue a restraining order, a writ of mandamus to any officer, or a preliminary injunction, as well as a permanent injunction, upon such terms and under such conditions as will do justice and enforce the purposes set forth in this Act.

If the court finds that the defendant has engaged in any of the foregoing prohibited activities, then the court shall allow the plaintiff a reasonable sum of money for the services of the plaintiff's attorney. This allowance shall be a part of the costs of the litigation assessed against the defendant and may be recovered as such.

A plaintiff need not prove any specific, special, or unique damages to the plaintiff or the plaintiff's property or any adverse effect upon the plaintiff's property from the alleged violation in order to maintain a suit under this Act.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Dahl, **Senate Bill No. 2632** having been printed, was taken up, read by title a second time.

Senator Dahl offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2632

AMENDMENT NO. 1. Amend Senate Bill 2632 as follows:

on page 1, line 8, by changing "The" to "Subject to appropriation, the"; and

on page 1, line 14, after "study.", by inserting "The study may build upon previous efforts by the Department, including studies conducted under its Critical Skills Shortage Initiative, which brought together private-sector employers and economic development entities as well as workforce, educational, and public-sector representatives to identify growth industries, industry skills shortages, and demand occupations, to determine root causes for the shortages, and to develop solutions to fill the skills gaps and worker shortages.".

The motion prevailed.

And the amendment was adopted and ordered printed.

Senate Floor Amendment No. 2 was held in the Committee on Rules.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Cronin, **Senate Bill No. 2733** having been printed, was taken up, read by title a second time.

Senator Cronin offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2733

AMENDMENT NO. 1. Amend Senate Bill 2733 on page 56, by replacing lines 11 through 23 with the following:

"(14) No cost shall be a redevelopment project cost in a redevelopment project area if used to demolish, remove, or substantially modify a historic resource, after the effective date of this amendatory Act of the 95th General Assembly, unless no prudent and feasible alternative exists. "Historic resource" for the purpose of this item (14) means (i) a place or structure that is included or eligible for inclusion on the National Register of Historic Places or (ii) a contributing structure in a district on the National Register of Historic Places. This item (14) does not apply to a place or structure for which demolition, removal, or modification is subject to review by the preservation agency of a Certified Local Government designated as such by the National Park Service of the United States Department of the

Interior.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Halvorson, **Senate Bill No. 2736,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Noland, **Senate Bill No. 2743** having been printed, was taken up, read by title a second time.

Senator Noland offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2743

AMENDMENT NO. 1. Amend Senate Bill 2743 on page 50, by replacing line 14 with the following:

"amended on or after January 1, 2009, if a fire protection district is not subject to an intergovernmental agreement with the municipality for the purposes of funding increased costs of the district because of new development, then the fire protection".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Noland, **Senate Bill No. 2744,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Noland, **Senate Bill No. 2750,** having been printed, was taken up, read by title a second time.

Senate Floor Amendment No. 1 was held in the Committee on Rules.

Senate Floor Amendment No. 2 was held in the Committee on Agriculture and Conservation.

There being no further amendments, the bill was ordered to a third reading.

On motion of Senator Haine, **Senate Bill No. 2760** having been printed, was taken up, read by title a second time.

Senator Haine offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2760

AMENDMENT NO. 1. Amend Senate Bill 2760 by replacing everything after the enacting clause with the following:

"Section 5. The Regulatory Sunset Act is amended by changing Section 4.20 and by adding Section 4.30 as follows:

(5 ILCS 80/4.20)

Sec. 4.20. Acts repealed on January 1, 2010. The following Acts are repealed on January 1, 2010:

The Auction License Act.

~~The Illinois Architecture Practice Act of 1989.~~

The Illinois Landscape Architecture Act of 1989.

The Illinois Professional Land Surveyor Act of 1989.

The Land Sales Registration Act of 1999.

The Orthotics, Prosthetics, and Pedorthics Practice Act.

The Perfusionist Practice Act.

~~The Professional Engineering Practice Act of 1989.~~

The Real Estate License Act of 2000.

The Structural Engineering Practice Act of 1989.

(Source: P.A. 91-91, eff. 7-9-99; 91-92, eff. 7-9-99; 91-132, eff. 7-16-99; 91-133, eff. 7-16-99; 91-245, eff. 12-31-99; 91-255, eff. 12-30-99; 91-338, eff. 12-30-99; 91-580, eff. 1-1-00; 91-590, eff. 1-1-00; 91-603, eff. 1-1-00; 92-16, eff. 6-28-01.)

(5 ILCS 80/4.30 new)

Sec. 4.30. Act repealed on January 1, 2020. The following Act is repealed on January 1, 2020:

The Illinois Architecture Practice Act of 1989.

The Professional Engineering Practice Act of 1989.

Section 10. The Illinois Architecture Practice Act of 1989 is amended by changing Sections 3, 4, 5, 6, 8, 9, 10, 12, 13, 21, 22, 23.5, 24, 36, and 38 and by adding Sections 4.5, 10.5, and 17.5 as follows:

(225 ILCS 305/3) (from Ch. 111, par. 1303)

(Section scheduled to be repealed on January 1, 2010)

Sec. 3. Application of Act. Nothing in this Act shall be deemed or construed to prevent the practice of structural engineering as defined in the Structural Engineering Practice Act of 1989, the practice of professional engineering as defined in the Professional Engineering Practice Act of 1989, or the preparation of documents used to prescribe work to be done inside buildings for non-loadbearing interior construction, furnishings, fixtures and equipment, or the offering or preparation of environmental analysis, feasibility studies, programming or construction management services by persons other than those licensed in accordance with this Act, the Structural Engineering Practice Act of 1989 or the Professional Engineering Practice Act of 1989.

Nothing contained in this Act shall prevent the draftsmen, students, project representatives and other employees of those lawfully practicing as licensed architects under the provisions of this Act, from acting under the responsible control ~~direct supervision and control~~ of their employers, or to prevent the employment of project representatives for enlargement or alteration of buildings or any parts thereof, or prevent such project representatives from acting under the direct supervision and control of the licensed architect by whom the construction documents including drawings and specifications of any such building, enlargement or alteration were prepared.

Nothing in this Act or any other Act shall prevent a licensed architect from practicing interior design services. Nothing in this Act shall be construed as requiring the services of an interior designer for the interior designing of a single family residence.

No officer, board, commission, or other public entity charged with the enforcement of codes and ordinances requiring the involvement of an architect shall accept for filing or approval any technical submissions that do not bear the seal and signature of an architect licensed under this Act. A building permit issued with respect to technical submissions that does not conform to the requirements of this Act shall be invalid.

The involvement of a licensed architect is not required for the following:

(A) The building, remodeling or repairing of any building or other structure outside of the corporate limits of any city or village, where such building or structure is to be, or is used for farm purposes, or for the purposes of outbuildings or auxiliary buildings in connection with such farm premises.

(B) The construction, remodeling or repairing of a detached single family residence on a single lot.

(C) The construction, remodeling or repairing of a two-family residence of wood frame construction on a single lot, not more than two stories and basement in height.

(D) Interior design services for buildings which do not involve life safety or structural changes.

However, when an ordinance of a unit of local government requires the involvement of a licensed architect for any buildings included in the preceding paragraphs (A) through (D), the requirements of this Act shall apply. All buildings not included in the preceding paragraphs (A) through (D), including multi-family buildings and buildings previously exempt from the involvement of a licensed architect under those paragraphs but subsequently non-exempt due to a change in occupancy or use, are subject to the requirements of this Act. Interior alterations which result in life safety or structural changes of the building are subject to the requirements of this Act.

(Source: P.A. 92-16, eff. 6-28-01; 93-1009, eff. 1-1-05.)

(225 ILCS 305/4) (from Ch. 111, par. 1304)

(Section scheduled to be repealed on January 1, 2010)

Sec. 4. Definitions. In this Act:

"Architect, Retired" means a person who has been duly licensed as an architect by the Department and

has chosen to relinquish or not renew his or her license pursuant to Section 17.5 of this Act.

"Architectural intern" means an unlicensed person who has completed the education requirements, is actively participating in the diversified professional training, and maintains in good standing a training record as required for licensure by this Act and may use the title "architectural intern", but may not independently engage in the practice of architecture.

~~(a)~~ "Department" means the Department of Financial and Professional Regulation.

"Design build" and "design build entity" means the project delivery process defined in Title 68, Section 1150.85 of the Illinois Administrative Code.

~~(b) "Director" means the Director of Professional Regulation.~~

~~(c)~~ "Board" means the Illinois Architecture Licensing Board appointed by the Director.

~~(d)~~ "Public health" as related to the practice of architecture means the state of the well-being of the body or mind of the building user.

~~(e)~~ "Public safety" as related to the practice of architecture means the state of being reasonably free from risk of danger, damage, or injury.

~~(f)~~ "Public welfare" as related to the practice of architecture means the well-being of the building user resulting from the state of a physical environment that accommodates human activity.

"Secretary" means the Secretary of Financial and Professional Regulation.

(Source: P.A. 93-1009, eff. 1-1-05.)

(225 ILCS 305/4.5 new)

Sec. 4.5. References to Department or Director of Professional Regulation.References in this Act (i) to the Department of Professional Regulation are deemed, in appropriate contexts, to be references to the Department of Financial and Professional Regulation and (ii) to the Director of Professional Regulation are deemed, in appropriate contexts, to be references to the Secretary of Financial and Professional Regulation.

(225 ILCS 305/5) (from Ch. 111, par. 1305)

(Section scheduled to be repealed on January 1, 2010)

Sec. 5. Architect defined; Acts constituting practice.

(a) An architect is a person who is qualified by education, training, experience, and examination, and who is licensed under the laws of this State, to practice architecture.

(b) The practice of architecture within the meaning and intent of this Act includes the offering or furnishing of professional services, such as consultation, environmental analysis, feasibility studies, programming, planning, aesthetic and structural design, technical submissions consisting of drawings and specifications and other documents required in the construction process, administration of construction contracts, project representation, and construction management, in connection with the construction of any private or public building, building structure, building project, or addition to or alteration or restoration thereof.

(c) Nothing contained in this Section imposes upon a person licensed under this Act the responsibility for the performance of any of the activities set forth in subsection (b), unless such person specifically contracts to provide the function.

(Source: P.A. 92-360, eff. 1-1-02.)

(225 ILCS 305/6) (from Ch. 111, par. 1306)

(Section scheduled to be repealed on January 1, 2010)

Sec. 6. Technical submissions. All technical submissions intended for use in construction in the State of Illinois shall be prepared and administered in accordance with standards of reasonable professional skill and diligence. Care shall be taken to reflect the requirements of State statutes and, where applicable, county and municipal building ordinances in such submissions. In recognition that architects are licensed for the protection of the public health, safety and welfare, submissions shall be of such quality and scope, and be so administered, as to conform to professional standards.

Technical submissions are the designs, drawings and specifications which establish the scope of the architecture to be constructed, the standard of quality for materials, workmanship, equipment, and construction systems, and the studies and other technical reports and calculations prepared in the course of the practice of architecture.

No person involved in an architectural project requiring the involvement of an architect during the design, construction, addition to, or alteration of a project, or any parts thereof, shall have the authority to deviate from the technical submissions without the prior approval of the licensed architect for the project.

(Source: P.A. 92-360, eff. 1-1-02.)

(225 ILCS 305/8) (from Ch. 111, par. 1308)

(Section scheduled to be repealed on January 1, 2010)

Sec. 8. Powers and duties of the Department.

(1) Subject to the provisions of this Act, the Department shall exercise the following functions, powers, and duties:

(a) conduct examinations to ascertain the qualifications and fitness of applicants for licensure as licensed architects, and pass upon the qualifications and fitness of applicants for licensure by endorsement;

(b) prescribe rules for a method of examination of candidates;

(c) prescribe rules defining what constitutes a school, college or university, or department of a university, or other institution, reputable and in good standing, to determine whether or not a school, college or university, or department of a university, or other institution is reputable and in good standing by reference to compliance with such rules, and to terminate the approval of such school, college or university or department of a university or other institution that refuses admittance to applicants solely on the basis of race, color, creed, sex or national origin. The Department may adopt, as its own rules relating to education requirements, those guidelines published from time to time by the National Architectural Accrediting Board;

(d) prescribe rules for diversified professional training;

(e) conduct oral interviews, disciplinary conferences and formal evidentiary hearings on proceedings to impose fines or to suspend, revoke, place on probationary status, reprimand, and refuse to issue or restore any license issued under the provisions of this Act for the reasons set forth in Section 22 of this Act;

(f) issue licenses to those who meet the requirements of this Act;

(g) formulate and publish rules necessary or appropriate to carrying out the provisions of this Act; and

(h) maintain membership in the National Council of Architectural Registration Boards and participate in activities of the Council by designation of individuals for the various classifications of membership and the appointment of delegates for attendance at regional and national meetings of the Council. All costs associated with membership and attendance of such delegates to any national meetings shall ~~may~~ be funded from the Design Professionals Administration and Investigation Fund.

(i) retain the right to employ or utilize the legal services of outside counsel and the investigative services of outside personnel; however, no attorney employed or used by the Department shall prosecute a matter and provide legal services to the Department or Board with respect to the same matter.

(2) Prior to issuance of any final decision or order that deviates from any report or recommendation of the Board relating to the qualification of applicants, discipline of licensees or registrants, or promulgation of rules, the Director shall notify the Board in writing with an explanation of the deviation and provide a reasonable time for the Board to submit written comments to the Director regarding the proposed action. In the event that the Board fails or declines to submit written comments within 30 days of the notification, the Director may issue a final decision or order consistent with the Director's original decision. The Department may at any time seek the expert advice and knowledge of the Board on any matter relating to the enforcement of this Act.

(Source: P.A. 91-133, eff. 1-1-00; 92-16, eff. 6-28-01.)

(225 ILCS 305/9) (from Ch. 111, par. 1309)

(Section scheduled to be repealed on January 1, 2010)

Sec. 9. Creation of the Board. The Director shall appoint an Architecture Licensing Board which will consist of 6 members. Five members shall be licensed architects, one of whom shall be a tenured member of the architectural faculty of an Illinois public university accredited by the National Architectural Accrediting Board ~~the University of Illinois~~. The other 4 shall be licensed architects, residing in this State, who have been engaged in the practice of architecture at least 10 years. In addition to the 5 licensed architects, there shall be one public member. The public member shall be a voting member and shall not hold a license as an architect, professional engineer, structural engineer or land surveyor.

Board members shall serve 5 year terms and until their successors are appointed and qualified. In making the designation of persons to the Board, the Director shall give due consideration to recommendations by members and organizations of the profession.

The membership of the Board should reasonably reflect representation from the geographic areas in this State.

No member shall be reappointed to the Board for a term which would cause his or her continuous service on the Board to be longer than 10 successive years. ~~Service prior to the effective date of this Act shall not be considered.~~

Appointments to fill vacancies shall be made in the same manner as original appointments, for the

unexpired portion of the vacated term. Initial terms shall begin upon the effective date of this Act and Board members in office on that date under the predecessor Act may be appointed to specific terms as indicated in this Section.

Persons holding office as members of the Board under the Illinois Architecture Act immediately prior to the effective date of this Act shall continue as members of the Board under this Act until the expiration of the term for which they were appointed and until their successors are appointed and qualified.

A quorum of the Board shall consist of a majority of Board members currently appointed. A majority vote of the quorum is required for Board decisions.

The Director may remove any member of the Board for misconduct, incompetence, neglect of duty, or for reasons prescribed by law for removal of State officials.

The Director may remove a member of the Board who does not attend 2 consecutive meetings.

Notice of proposed rulemaking shall be transmitted to the Board and the Department shall review the response of the Board and any recommendations made therein. The Department may, at any time, seek the expert advice and knowledge of the Board on any matter relating to the administration or enforcement of this Act.

Members of the Board are immune from suit in any action based upon any disciplinary proceedings or other activities performed in good faith as members of the Board.

(Source: P.A. 91-133, eff. 1-1-00.)

(225 ILCS 305/10) (from Ch. 111, par. 1310)

(Section scheduled to be repealed on January 1, 2010)

Sec. 10. Powers and duties of the Board.

(a) The Board shall hold at least 3 regular meetings each year.

(b) The Board shall annually elect a Chairperson and a Vice Chairperson who shall be licensed architects.

(c) The Board, upon request by the Department, may make a curriculum evaluation to determine if courses conform to the requirements of approved architectural programs.

(d) The Board shall assist the Department in conducting oral interviews, disciplinary conferences and formal evidentiary hearings.

(e) The Department may, at any time, seek the expert advice and knowledge of the Board on any matter relating to the enforcement of this Act.

(f) The Board may appoint a subcommittee to serve as a Complaint Committee to recommend the disposition of case files according to procedures established in Section 10.5 of this Act or by rule.

(g) The Board shall review applicant qualifications to sit for the examination or for licensure and shall make recommendations to the Department. The Department shall review the Board's recommendations on applicant qualifications. The Director shall notify the Board in writing with an explanation of any deviation from the Board's recommendation on applicant qualifications. After review of the Director's written explanation of his or her reasons for deviation, the Board shall have the opportunity to comment upon the Director's decision.

(h) The Board shall submit written comments to the Director within 30 days from notification of any final decision or order from the Director that deviates from any report or recommendation of the Board relating to the qualifications of applicants, discipline of licensees or registrants, unlicensed practice, or promulgation of rules.

(i) The Board may recommend that the Department contract with a corporation or other business entity to provide investigative, legal, prosecutorial, and other services necessary to perform its duties.

(Source: P.A. 91-133, eff. 1-1-00.)

(225 ILCS 305/10.5 new)

Sec. 10.5. Complaint Committee.

(a) There is created the Architecture Complaint Committee of the Board composed of 2 voting members of the Board, a Supervisor over Design Investigations, and a Chief of Prosecutions over Design Prosecutions. The Director of Enforcement shall designate the Supervisor and Chief assigned to the Complaint Committee.

(b) The Complaint Committee shall meet at least once every 2 months to exercise its functions and duties as set forth in subsection (c). Two members of the Board shall be in attendance in order for any business to be transacted by the Complaint Committee. The Complaint Committee shall make every effort to consider expeditiously and take prompt action on each item on its agenda.

(c) The Complaint Committee shall have the following duties and functions:

(1) To review any complaint filed against an involved party under this Act.

(2) To refer the complaint to the Supervisor over Design Investigations for further action.

(3) To recommend to the Board that a complaint file be closed.

(4) To make all other decisions in conjunction with the Supervisor over Design Investigations regarding an action to be taken on a complaint.

(5) To report the actions of the Complaint Committee at each meeting of the Board.

(6) To provide an annual statistical report of all complaints filed, the average length of time to resolve a complaint, the number of complaints resolved or dismissed, the reasons for dismissed complaints, the number of complaints that resulted in disciplinary action, and the number of unresolved complaints. Such report shall be made available to the public.

(d) In determining what action to take or whether to proceed with prosecution of a complaint, the Complaint Committee shall consider, but not be limited to, the following factors: the effect on the public's health, safety, and welfare; the sufficiency of the evidence presented; prosecutorial merit; and sufficient cooperation from complaining parties.

(e) No complaint file shall be closed nor complaint dismissed except upon recommendation of the Complaint Committee or approval by the Board.

(f) When a complaint is made to the Department that alleges that a building or other structure that requires the involvement of an architect in its design is under construction, construction is imminent, or construction has been completed and an architect is not or was not involved in its design, the investigation of that complaint shall be expedited to ensure the health and safety of the public. This investigation shall be referred to as an emergency investigation.

An emergency investigation must be given priority attention and assigned to an investigator as soon as possible.

Once assigned to an investigator, the Department, through its investigator, must convene a meeting of the Complaint Committee by teleconference to determine if the complaint shall continue to be treated as an emergency investigation. Such meetings will be deemed an emergency and notice of the meeting shall be provided in accordance with the Open Meetings Act.

Upon determination by the Complaint Committee that the complaint should be treated as an emergency investigation, the complaint must be investigated as soon as possible.

Upon completion of the emergency investigation, the investigator must again convene a meeting of the Complaint Committee by teleconference. This meeting shall also be considered an emergency and notice of the meeting shall be provided in accordance with the Open Meetings Act. The Complaint Committee must then decide whether to recommend to the Department that the complaint be referred to the Attorney General to seek a temporary restraining order and permanent injunction against the start or further construction of the project or, where the project has already been completed, to enjoin the use of the building or structure. The Complaint Committee shall recommend that the case be referred to the Attorney General only upon a finding that the facts alleged in the complaint are credible and constitute an imminent danger to the public.

(225 ILCS 305/12) (from Ch. 111, par. 1312)

(Section scheduled to be repealed on January 1, 2010)

Sec. 12. Examinations; subjects; failure or refusal to take examination. The Department shall authorize examination of applicants as architects at such times and places as it may determine. The examination shall be in English and shall be written or written and graphic. It shall include at a minimum the following subjects:

(a) pre-design (environmental analysis, architectural programming, and application of principles of project management and coordination);

(b) site planning (site analysis, design and development, parking, and application of zoning requirements);

(c) building planning (conceptual planning of functional and space relationships, building design, interior space layout, barrier-free design, and the application of the life safety code requirements and principles of energy efficient design);

(d) building technology (application of structural systems, building components, and mechanical and electrical systems);

(e) general structures (identification, resolution, and incorporation of structural systems and the long span design on the technical aspects of the design of buildings and the process and construction);

(f) lateral forces (identification and resolution of the effects of lateral forces on the technical aspects of the design of buildings and the process of construction);

(g) mechanical and electrical systems (as applied to the design of buildings, including plumbing and acoustical systems);

(h) materials and methods (as related to the design of buildings and the technical

aspects of construction); and

(i) construction documents and services (conduct of architectural practice as it relates to construction documents, bidding, and construction administration and contractual documents from beginning to end of a building project).

It shall be the responsibility of the applicant to be familiar with this Act and its rules.

Examination subject matter headings and bases on which examinations are graded shall be indicated in rules pertaining to this Act. The Department may adopt the examinations and grading procedures of the National Council of Architectural Registration Boards. Content of any particular examination shall not be considered public record under the Freedom of Information Act.

An applicant shall have 5 years from passage of the first examination to successfully complete all examinations required by rule of the Department. ~~If an applicant neglects without an approved excuse or refuses to take the next available examination offered for licensure under this Act, the fee paid by the applicant shall be forfeited. If an applicant fails to pass an examination for licensure under this Act within 3 years after filing an application, the application shall be denied. The applicant may, however, make a new application for examination accompanied by the required fee and must furnish proof of meeting the qualifications for examination in effect at the time of the new application.~~

The Department may by rule prescribe additional subjects for examination.

~~An applicant has one year from the date of notification of successful completion of all the examination requirements to apply to the Department for a license. If an applicant fails to apply within one year, the applicant shall be required to again take and pass the examination.~~

(Source: P.A. 91-133, eff. 1-1-00; 92-16, eff. 6-28-01.)

(225 ILCS 305/13) (from Ch. 111, par. 1313)

(Section scheduled to be repealed on January 1, 2010)

Sec. 13. Qualifications of applicants. Any person who is of good moral character may apply ~~take an examination~~ for licensure if he or she is a graduate with a first professional degree in architecture from a program accredited by the National Architectural Accrediting Board , has completed the examination requirements set forth under Section 12 of this Act, and has completed such diversified professional training, including academic training, as is required by rules of the Department. Until January 1, 2014, in lieu of the requirement of graduation with a first professional degree in architecture from a program accredited by the National Architectural Accrediting Board, the Department may admit an applicant who is a graduate with a pre-professional 4 year baccalaureate degree accepted for direct entry into a first professional master of architecture degree program, and who has completed such additional diversified professional training, including academic training, as is required by rules of the Department. The Department may adopt, as its own rules relating to diversified professional training, those guidelines published from time to time by the National Council of Architectural Registration Boards.

Good moral character means such character as will enable a person to discharge the fiduciary duties of an architect to that person's client and to the public in a manner which protects health, safety and welfare. Evidence of inability to discharge such duties may include the commission of an offense justifying discipline under Section 22 ~~19~~. In addition, the Department may take into consideration whether the applicant has engaged in conduct or actions that would constitute grounds for discipline under this Act.

(Source: P.A. 93-1009, eff. 1-1-05; 94-543, eff. 8-10-05.)

(225 ILCS 305/17.5 new)

Sec. 17.5. Architect, Retired. Pursuant to Section 2105-15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois, the Department may grant the title "Architect, Retired" to any person who has been duly licensed as an architect by the Department and who chooses to relinquish or not renew his or her license. The Department may, by rule, exempt from continuing education requirements those who are granted the title "Architect, Retired". Those persons granted the title "Architect, Retired" may request restoration to active status under the applicable provisions of this Act.

The use of the title "Architect, Retired" shall not constitute representation of current licensure. Any person without an active license shall not be permitted to practice architecture as defined in this Act.

(225 ILCS 305/21) (from Ch. 111, par. 1321)

(Section scheduled to be repealed on January 1, 2010)

Sec. 21. Professional design firm registration; conditions.

(a) Nothing in this Act shall prohibit the formation, under the provisions of the Professional Service Corporation Act, of a corporation to offer the practice of architecture.

Any business, including a Professional Service Corporation, that includes the practice of architecture within its stated purposes, practices architecture, or holds itself out as available to practice architecture

shall register with the Department under this Section. Any professional service corporation, sole proprietorship, or professional design firm offering architectural services must have a resident architect overseeing the architectural practices in each location in which architectural services are provided.

Any sole proprietorship not owned and operated by an Illinois licensed design professional licensed under this Act shall be prohibited from offering architectural services to the public. "Illinois licensed design professional" means a person who holds an active license as an architect under this Act, as a structural engineer under the Structural Engineering Practice Act of 1989, or as a professional engineer under the Professional Engineering Practice Act of 1989. Any sole proprietorship owned and operated by an architect with an active license issued under this Act and conducting or transacting such business under an assumed name in accordance with the provisions of the Assumed Business Name Act shall comply with the registration requirements of a professional design firm. Any sole proprietorship owned and operated by an architect with an active license issued under this Act and conducting or transacting such business under the real name of the sole proprietor is exempt from the registration requirements of a professional design firm.

(b) Any corporation, including a Professional Service Corporation, partnership, limited liability company, or professional design firm seeking to be registered under this Section shall not be registered unless:

(1) two-thirds of the board of directors, in the case of a corporation, or two-thirds of the general partners, in the case of a partnership, or two-thirds of the members, in the case of a limited liability company, are licensed under the laws of any State to practice architecture, professional engineering, land surveying, or structural engineering; and

(2) the person having the architectural practice in this State in his charge is (A) a director in the case of a corporation, a general partner in the case of a partnership, or a member in the case of a limited liability company, and (B) holds a license under this Act.

Any corporation, limited liability company, professional service corporation, or partnership qualifying under this Section and practicing in this State shall file with the Department any information concerning its officers, directors, members, managers, partners or beneficial owners as the Department may, by rule, require.

(c) No business shall offer the practice or hold itself out as available to offer the practice of architecture until it is registered with the Department. Every entity registered as a professional design firm shall display its certificate of registration or a facsimile thereof in a conspicuous place in each office offering architectural services.

(d) Any business seeking to be registered under this Section shall make application on a form provided by the Department and shall provide any information requested by the Department, which shall include but shall not be limited to all of the following:

(1) The name and architect's license number of at least one person designated as the managing agent in responsible charge of the practice of architecture in Illinois. In the case of a corporation, the corporation shall also submit a certified copy of the resolution by the board of directors designating at least one managing agent. If a limited liability company, the company shall submit a certified copy of either its articles of organization or operating agreement designating the managing agent.

(2) The names and architect's, professional engineer's, structural engineer's, or land surveyor's license numbers of the directors, in the case of a corporation, the members, in the case of a limited liability company, or general partners, in the case of a partnership.

(3) A list of all locations at which the professional design firm provides architectural services.

(4) A list of all assumed names of the business. Nothing in this Section shall be construed to exempt a business from compliance with the requirements of the Assumed Business Name Act.

It is the responsibility of the professional design firm to provide the Department notice, in writing, of any changes in the information requested on the application.

(e) In the event a managing agent is terminated or terminates his or her status as managing agent of the professional design firm, the managing agent and professional design firm shall notify the Department of this fact in writing, by certified mail, within 10 business days of termination.

Thereafter, the professional design firm, if it has so informed the Department, has 30 days in which to notify the Department of the name and architect's license number of the architect who is the newly designated managing agent. If a corporation, the corporation shall also submit a certified copy of a resolution by the board of directors designating the new managing agent. If a limited liability company, the company shall also submit a certified copy of either its articles of organization or operating

agreement designating the new managing agent. The Department may, upon good cause shown, extend the original 30 day period.

If the professional design firm has not notified the Department in writing, by certified mail within the specified time, the registration shall be terminated without prior hearing. Notification of termination shall be sent by certified mail to the last known address of the business. If the professional design firm continues to operate and offer architectural services after the termination, the Department may seek prosecution under Sections 22, 36, and 36a of this Act for the unlicensed practice of architecture.

(f) No professional design firm shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this Section, nor shall any individual practicing architecture be relieved of the responsibility for professional services performed by reason of the individual's employment or relationship with a professional design firm registered under this Section.

(g) Disciplinary action against a professional design firm registered under this Section shall be administered in the same manner and on the same grounds as disciplinary action against a licensed architect. All disciplinary action taken or pending against a corporation or partnership before the effective date of this amendatory Act of 1993 shall be continued or remain in effect without the Department filing separate actions.

(Source: P.A. 91-91, eff. 1-1-00; 91-133, eff. 1-1-00.)

(225 ILCS 305/22) (from Ch. 111, par. 1322)

(Section scheduled to be repealed on January 1, 2010)

Sec. 22. Refusal, suspension and revocation of licenses; Causes.

(a) The Department may, singularly or in combination, refuse to issue, renew or restore, or may suspend or revoke any license or registration, or may place on probation, reprimand, or fine, with a civil penalty not to exceed $10,000 for each violation, any person, corporation, or partnership, or professional design firm licensed or registered under this Act for any of the following reasons:

(1) material misstatement in furnishing information to the Department;

(2) negligence, incompetence or misconduct in the practice of architecture;

(3) failure to comply with any of the provisions of this Act or any of the rules;

(4) making any misrepresentation for the purpose of obtaining licensure;

(5) purposefully making false statements or signing false statements, certificates or affidavits to induce payment;

(6) conviction of any crime under the laws of the United States, or any state or territory thereof, which is a felony, whether related to the practice of architecture or not; or conviction of any crime, whether a felony, misdemeanor, or otherwise, an essential element of which is dishonesty, wanton disregard for the rights of others, or which is directly related to the practice of architecture;

(7) aiding or assisting another person in violating any provision of this Act or its rules;

(8) signing, affixing the licensed architect's seal or permitting the architect's seal to be affixed to any technical submission ~~construction documents~~ not prepared by the architect or under that architect's responsible ~~direct supervision and~~ control;

(9) engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public;

(10) habitual intoxication or addiction to the use of drugs;

(11) making a statement of compliance pursuant to the Environmental Barriers Act that construction documents prepared by the Licensed Architect or prepared under the licensed architect's direct supervision and control for construction or alteration of an occupancy required to be in compliance with the Environmental Barriers Act are in compliance with the Environmental Barriers Act when such technical submissions ~~construction documents~~ are not in compliance;

(12) a finding by the Board that an applicant or registrant has failed to pay a fine imposed by the Department or a registrant, whose license has been placed on probationary status, has violated the terms of probation;

(13) discipline by another state, territory, foreign country, the District of Columbia, the United States government, or any other governmental agency, if at least one of the grounds for discipline is the same or substantially equivalent to those set forth herein;

(14) failure to provide information in response to a written request made by the Department within 30 days after the receipt of such written request;

(15) physical illness, including, but not limited to, deterioration through the aging process or loss of motor skill which results in the inability to practice the profession with reasonable judgment, skill or safety.

(a-5) In enforcing this Section, the Board upon a showing of a possible violation may request that the Department compel a person licensed to practice under this Act, or who has applied for licensure or certification pursuant to this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The examining physicians shall be those specifically designated by the Department. The Department may order the examining physician to present testimony concerning this mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The person to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of any person to submit to a mental or physical examination, when directed, shall be grounds for suspension of a license until the person submits to the examination if the Department finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

If the Board finds a person unable to practice because of the reasons set forth in this Section, the Board may recommend that the Department require that person to submit to care, counseling, or treatment by physicians approved or designated by the Department as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling, or treatment, the Board may recommend to the Department to file a complaint to immediately suspend, revoke or otherwise discipline the license of the person. Any person whose license was granted, continued, reinstated, renewed, disciplined, or supervised subject to such terms, conditions, or restrictions and who fails to comply with such terms, conditions, or restrictions shall be referred to the Director for a determination as to whether the person shall have his or her license suspended immediately, pending a hearing by the Board.

(b) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission, as provided in the Mental Health and Developmental Disabilities Code, operates as an automatic suspension. Such suspension will end only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission, the issuance of an order so finding and discharging the patient, and the recommendation of the Board to the Director that the licensee be allowed to resume practice.

The Department may refuse to issue or may suspend the license of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

Persons who assist the Department as consultants or expert witnesses in the investigation or prosecution of alleged violations of the Act, licensure matters, restoration proceedings, or criminal prosecutions, shall not be liable for damages in any civil action or proceeding as a result of such assistance, except upon proof of actual malice. The attorney general shall defend such persons in any such action or proceeding.

(Source: P.A. 94-543, eff. 8-10-05.)

(225 ILCS 305/23.5)

(Section scheduled to be repealed on January 1, 2010)

Sec. 23.5. Unlicensed practice; violation; civil penalty.

(a) Any person who practices, offers to practice, attempts to practice, or holds oneself out to practice as an architect without being licensed under this Act shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed $10,000 ~~$5,000~~ for each offense as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a licensee.

(a-5) Any entity that advertises architecture services in a telecommunications directory must include its architecture firm registration number or, in the case of a sole proprietor, his or her individual license number. Nothing in this subsection (a-5) requires the publisher of a telecommunications directory to investigate or verify the accuracy of the registration or license number provided by the advertiser of architecture services.

(b) The Department has the authority and power to investigate any and all unlicensed activity.

(c) The civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

(Source: P.A. 94-543, eff. 8-10-05.)

(225 ILCS 305/24) (from Ch. 111, par. 1324)

(Section scheduled to be repealed on January 1, 2010)

Sec. 24. Investigations; notice and hearing. The Department may investigate the actions of any applicant or of any person or entity holding or claiming to hold a license or registration. Before the initiation of an investigation, the matter shall be reviewed by a subcommittee of the Board according to procedures established in Section 10.5 of this Act or by rule for the Complaint Committee. The Department shall, before refusing to restore, issue or renew a license or registration, or discipline a licensee or registrant, at least 30 days prior to the date set for the hearing, notify in writing the applicant for, or holder of, a license or registrant of the nature of the charges and that a hearing will be held on the date designated, and direct the applicant or entity or licensee or registrant to file a written answer to the Board under oath within 20 days after the service of the notice and inform the applicant or entity or licensee or registrant that failure to file an answer will result in default being taken against the applicant or entity or licensee or registrant and that the license or certificate may be suspended, revoked, placed on probationary status, or other disciplinary action may be taken, including limiting the scope, nature or extent of practice, as the Director may deem proper. Written notice may be served by personal delivery or certified or registered mail to the respondent at the address of his last notification to the Department. In case the person or entity fails to file an answer after receiving notice, his or her license or certificate may, in the discretion of the Department, be suspended, revoked, or placed on probationary status, or the Department may take whatever disciplinary action deemed proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act. At the time and place fixed in the notice, the Board shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present such statements, testimony, evidence and argument as may be pertinent to the charges or to their defense. The Board may continue the hearing from time to time.
(Source: P.A. 87-1031; 88-428.)

(225 ILCS 305/36) (from Ch. 111, par. 1336)

(Section scheduled to be repealed on January 1, 2010)

Sec. 36. Violations. Each of the following Acts constitutes a Class A misdemeanor for the first offense and a Class 4 felony for a second or subsequent offense:

(a) the practice, attempt to practice or offer to practice architecture, or the advertising or putting out of any sign or card or other device which might indicate to the public that the person is entitled to practice architecture, without a license as a licensed architect, or registration as a professional design firm issued by the Department. Each day of practicing architecture or attempting to practice architecture, and each instance of offering to practice architecture, without a license as a licensed architect or registration as a professional design firm constitutes a separate offense;

(b) the making of any wilfully false oath or affirmation in any matter or proceeding where an oath or affirmation is required by this Act;

(c) the affixing of a licensed architect's seal to any technical submissions ~~construction documents~~ which have not been prepared by that architect or under the architect's responsible ~~direct supervision and~~ control;

(d) the violation of any provision of this Act or its rules;

(e) using or attempting to use an expired, inactive, suspended, or revoked license, or the certificate or seal of another, or impersonating another licensee;

(f) obtaining or attempting to obtain a license or registration by fraud; or

(g) If any person, sole proprietorship, professional service corporation, limited liability company, corporation or partnership, or other entity practices architecture or advertises or displays any sign or card or other device that might indicate to the public that the person or entity is entitled to practice as an architect or use the title "architect" or any of its derivations unless the person or other entity holds an active license as an architect or registration as a professional design firm in the State; then, in addition to any other penalty provided by law any person or other entity who violates this subsection (g) shall forfeit and pay to the Design Professionals Administration and Investigation Fund a civil penalty in an amount determined by the Department of not more than $10,000 ~~$5,000~~ for each offense.

An unlicensed person who has completed the education requirements, is actively participating in the diversified professional training, and maintains in good standing a training record as required for licensure by this Act may use the title "architectural intern", but may not independently engage in the practice of architecture.
(Source: P.A. 93-1009, eff. 1-1-05.)

(225 ILCS 305/38) (from Ch. 111, par. 1338)

(Section scheduled to be repealed on January 1, 2010)

Sec. 38. Fund; appropriations; investments; audits. Moneys deposited in the Design Professionals Administration and Investigation Fund shall be appropriated to the Department exclusively for expenses of the Department and the Board in the administration of this Act, the Illinois Professional Land Surveyor Act of 1989, the Professional Engineering Practice Act of 1989, and the Structural Engineering Practice Act of 1989. The expenses of the Department under this Act shall be limited to the ordinary and contingent expenses of the Design Professionals Dedicated Employees within the Department as established under Section 2105-75 of the Department of Professional Regulation Law (20 ILCS 2105/2105-75) and other expenses related to the administration and enforcement of this Act.

Moneys from the Fund may also be used for direct and allocable indirect costs related to the public purposes of the Department of Financial and Professional Regulation. Moneys in the Fund may be transferred to the Professions Indirect Cost Fund as authorized by Section 2105-300 of the Department of Professional Regulation Law (20 ILCS 2105/2105-300).

All fines and penalties under Sections 22 and 36 shall be deposited in the Design Professionals Administration and Investigation Fund.

Moneys in the Design Professionals Administration and Investigation Fund may be invested and reinvested, with all earnings received from the investments to be deposited in the Design Professionals Administration and Investigation Fund and used for the same purposes as fees deposited in the Fund.

Upon the completion of any audit of the Department as prescribed by the Illinois State Auditing Act that includes an audit of the Design Professionals Administration and Investigation Fund, the Department shall make the audit open to inspection by any interested person. The copy of the audit report required to be submitted to the Department by this Section is an addition to copies of audit reports required to be submitted to other State officers and agencies by Section 3-14 of the Illinois State Auditing Act.

(Source: P.A. 91-91, eff. 1-1-00; 91-133, eff. 1-1-00; 91-239, eff. 1-1-00; 92-16, eff. 6-28-01.)

Section 15. The Professional Engineering Practice Act of 1989 is amended by changing Sections 3, 4, 5, 7, 10, 17, and 42 and by adding Sections 4.5 and 7.5 as follows:

(225 ILCS 325/3) (from Ch. 111, par. 5203)

(Section scheduled to be repealed on January 1, 2010)

Sec. 3. Application of the Act; Exemptions.

(a) Nothing in this Act shall be construed to prevent the practice of structural engineering as defined in the Structural Engineering Practice Act of 1989 or the practice of architecture as defined in the Illinois Architecture Practice Act of 1989 or the regular and customary practice of construction contracting and construction management as performed by construction contractors.

(b) Nothing in this Act shall prevent:

(1) Employees, including project representatives, of professional engineers lawfully practicing as sole owners, partnerships or corporations under this Act, from acting under the direct supervision of their employers.

(2) The employment of owner's representatives by the owner during the constructing, adding to, or altering of a project, or any parts thereof, provided that such owner's representative shall not have the authority to deviate from the technical submissions without the prior approval of the professional engineer for the project.

(3) The practice of officers and employees of the Government of the United States while engaged within this State in the practice of the profession of engineering for the Government.

(4) Services performed by employees of a business organization engaged in utility, industrial or manufacturing operations, or by employees of laboratory research affiliates of such business organization which are rendered in connection with the fabrication or production, sale, and installation of products, systems, or nonengineering services of the business organization or its affiliates.

(5) Inspection, maintenance and service work done by employees of the State of Illinois, any political subdivision thereof or any municipality.

(6) The activities performed by those ordinarily designated as chief engineer of plant operation, chief operating engineer, locomotive, stationary, marine, power plant or hoisting and portable engineers, electrical maintenance or service engineers, personnel employed in connection with construction, operation or maintenance of street lighting, traffic control signals, police and fire alarm systems, waterworks, steam, electric, and sewage treatment and disposal plants, or the services ordinarily performed by any worker regularly employed as a locomotive, stationary, marine, power plant, or hoisting and portable engineer or electrical maintenance or service engineer for any corporation, contractor or employer.

(7) The activities performed by a person ordinarily designated as a supervising engineer or supervising electrical maintenance or service engineer who supervises the operation of, or who operates, machinery or equipment, or who supervises construction or the installation of equipment within a plant which is under such person's immediate supervision.

(8) The services, for private use, of contractors or owners in the construction of engineering works or the installation of equipment.

(c) No officer, board, commission, or other public entity charged with the enforcement of codes and ordinances involving a professional engineering project shall accept for filing or approval any technical submissions that do not bear the seal and signature of a professional engineer licensed under this Act. A building permit issued with respect to technical submissions that do not conform to the requirements of this Act shall be invalid.

(d) Nothing contained in this Section imposes upon a person licensed under this Act the responsibility for the performance of any of the foregoing functions unless such person specifically contracts to provide it.

(Source: P.A. 91-91, eff. 1-1-00.)

(225 ILCS 325/4) (from Ch. 111, par. 5204)

(Section scheduled to be repealed on January 1, 2010)

Sec. 4. Definitions. As used in this Act:

(a) "Approved engineering curriculum" means an engineering curriculum or program of 4 academic years or more which meets the standards established by the rules of the Department.

(b) "Board" means the State Board of Professional Engineers of the Department of Professional Regulation, previously known as the Examining Committee.

(c) "Department" means the Department of Financial and Professional Regulation.

(d) "Design professional" means an architect, structural engineer or professional engineer practicing in conformance with the Illinois Architecture Practice Act of 1989, the Structural Engineering Practice Act of 1989 or the Professional Engineering Practice Act of 1989.

(e) ""Secretary" ~~Director~~" means the Secretary ~~Director~~ of Financial and Professional Regulation.

(f) "Direct supervision/responsible charge" means work prepared under the control of a licensed professional engineer or that work as to which that professional engineer has detailed professional knowledge.

(g) "Engineering college" means a school, college, university, department of a university or other educational institution, reputable and in good standing in accordance with rules prescribed by the Department, and which grants baccalaureate degrees in engineering.

(h) "Engineering system or facility" means a system or facility whose design is based upon the application of the principles of science for the purpose of modification of natural states of being.

(i) "Engineer intern" means a person who is a candidate for licensure as a professional engineer and who has been enrolled as an engineer intern.

(j) "Enrollment" means an action by the Department to record those individuals who have met the Board's requirements for an engineer intern.

(k) "License" means an official document issued by the Department to an individual, a corporation, a partnership, a professional service corporation, a limited liability company, or a sole proprietorship, signifying authority to practice.

(l) "Negligence in the practice of professional engineering" means the failure to exercise that degree of reasonable professional skill, judgment and diligence normally rendered by professional engineers in the practice of professional engineering.

(m) "Professional engineer" means a person licensed under the laws of the State of Illinois to practice professional engineering.

(n) "Professional engineering" means the application of science to the design of engineering systems and facilities using the knowledge, skills, ability and professional judgment developed through professional engineering education, training and experience.

(o) "Professional engineering practice" means the consultation on, conception, investigation, evaluation, planning, and design of, and selection of materials to be used in, administration of construction contracts for, or site observation of, an engineering system or facility, where such consultation, conception, investigation, evaluation, planning, design, selection, administration, or observation requires extensive knowledge of engineering laws, formulae, materials, practice, and construction methods. A person shall be construed to practice or offer to practice professional engineering, within the meaning and intent of this Act, who practices, or who, by verbal claim, sign, advertisement, letterhead, card, or any other way, is represented to be a professional engineer, or through the use of the initials "P.E." or the title "engineer" or any of its derivations or some other title implies

licensure as a professional engineer, or holds himself out as able to perform any service which is recognized as professional engineering practice.

Examples of the practice of professional engineering include, but need not be limited to, transportation facilities, public ~~and publicly owned~~ utilities ~~for a region or community~~, railroads, railways, highways, subways, canals, harbors, and river improvements; land development; stormwater detention, retention, and conveyance; irrigation works; aircraft and ~~,~~ airports ~~and landing fields~~; traffic engineering; waterworks, piping systems ~~and appurtenances~~, sewers, sewage disposal works; storm sewer, sanitary sewer, and water system modeling; plants for the generation of power; devices for the utilization of power; boilers; refrigeration plants, air conditioning systems and plants; heating systems and plants; plants for the transmission or distribution of power; electrical plants which produce, transmit, distribute, or utilize electrical energy; works for the extraction of minerals from the earth; plants for the refining, alloying or treating of metals; chemical works and industrial plants involving the use of chemicals and chemical processes; plants for the production, conversion, or utilization of nuclear, chemical, or radiant energy; forensic engineering, geotechnical engineering including, subsurface investigations; soil and rock classification, geology and geohydrology, incidental to the practice of professional engineering; geohydrological investigations, migration pathway analysis (including evaluation of building and site elements), soil and groundwater management zone analysis and design; energy analysis, environmental risk assessments, corrective action plans, design ~~,~~ remediation, protection plans and systems, hazardous waste mitigation and control, environmental control or remediation systems; recognition, measurement, evaluation, and control of environmental systems and emissions; evaluation and design of engineered barriers, modeling of pollutants in water, soil, and air; engineering surveys of sites, facilities, and topography, not including land boundary establishment; ~~recognition, measurement, evaluation and control of environmental systems and emissions;~~ automated building management systems; control or remediation systems; computer controlled or integrated systems; automatic fire notification and suppression systems; investigation and assessment of indoor air inhalation exposures and design of abatement and remediation systems; or the provision of professional engineering site observation of the construction of works and engineering systems. Nothing in this Section shall preclude an employee from acting under the direct supervision/responsible charge of a licensed professional engineer. Nothing contained in this Section imposes upon a person licensed under this Act the responsibility for the performance of any of the foregoing functions unless such person specifically contracts to provide it.

(p) "Project representative" means the professional engineer's representative at the project site who assists in the administration of the construction contract.

(q) "Registered" means the same as "licensed" for purposes of this Act.

(r) "Related science curriculum" means a 4 year program of study, the satisfactory completion of which results in a Bachelor of Science degree, and which contains courses from such areas as life, earth, engineering and computer sciences, including but not limited to, physics and chemistry. In the study of these sciences, the objective is to acquire fundamental knowledge about the nature of its phenomena, including quantitative expression, appropriate to particular fields of engineering.

(s) "Rules" means those rules promulgated pursuant to this Act.

(t) "Seal" means the seal in compliance with Section 14 of this Act.

(u) "Site observation" is visitation of the construction site for the purpose of reviewing, as available, the quality and conformance of the work to the technical submissions as they relate to design.

(v) "Support design professional" means a professional engineer practicing in conformance with the Professional Engineering Practice Act of 1989, who provides services to the design professional who has contract responsibility.

(w) "Technical submissions" means the designs, drawings, and specifications which establish the scope and standard of quality for materials, workmanship, equipment, and ~~the construction~~ systems intended for use in construction. "Technical submissions" includes, but is not limited to, studies, analyses, calculations, and other technical reports prepared in the course of the ~~a design professional's~~ practice of professional engineering or under the direct supervision/responsible charge of a licensed professional engineer.

(x) "Design/build" and "design/build entity" means the project delivery process defined in Title 68, Section 1380.296 of the Illinois Administrative Code.

(Source: P.A. 91-91, eff. 1-1-00; 91-92, eff. 1-1-00; 92-16, eff. 6-28-01; 92-145, eff. 1-1-02.)

(225 ILCS 325/4.5 new)

Sec. 4.5. References to Department or Director of Professional Regulation. References in this Act (i) to the Department of Professional Regulation are deemed, in appropriate contexts, to be references to the Department of Financial and Professional Regulation and (ii) to the Director of Professional Regulation are deemed, in appropriate contexts, to be references to the Secretary of Financial and Professional

Regulation.

(225 ILCS 325/5) (from Ch. 111, par. 5205)

(Section scheduled to be repealed on January 1, 2010)

Sec. 5. Powers and duties of the Department. Subject to the provisions of this Act, the Department shall exercise the following functions, powers and duties:

(a) To pass upon the qualifications and conduct examinations of applicants for licensure as professional engineers or enrollment as engineer interns and pass upon the qualifications of applicants by endorsement and issue a license or enrollment to those who are found to be fit and qualified.

(b) To prescribe rules for the method, conduct and grading of the examination of applicants.

(c) To license corporations, partnerships, professional service corporations, limited liability companies, and sole proprietorships for the practice of professional engineering and issue a license to those who qualify.

(d) To conduct investigations and hearings regarding violations of this Act and take disciplinary or other actions as provided in this Act as a result of the proceedings.

(e) To prescribe rules as to what shall constitute an engineering or related science curriculum and to determine if a specific engineering curriculum is in compliance with the rules, and to terminate the approval of a specific engineering curriculum for non-compliance with such rules.

(f) To promulgate rules required for the administration of this Act, including rules of professional conduct.

(g) To maintain membership in the National Council of Examiners for Engineering and Surveying and participate in activities of the Council by designation of individuals for the various classifications of membership, the appointment of delegates for attendance at zone and national meetings of the Council, and the funding of the delegates for attendance at the meetings of the Council.

(h) To obtain written recommendations from the Board regarding qualifications of individuals for licensure and enrollment, definitions of curriculum content and approval of engineering curricula, standards of professional conduct and formal disciplinary actions, and the promulgation of the rules affecting these matters.

Prior to issuance of any final decision or order that deviates from any report or recommendations of the Board relating to the qualification of applicants, discipline of licensees or registrants, or promulgation of rules, the Director shall notify the Board in writing with an explanation of any such deviation and provide a reasonable time for the Board to submit written comments to the Director regarding the proposed action. In the event that the Board fails or declines to submit such written comments within 30 days of said notification, the Director may issue a final decision or orders consistent with the Director's original decision. The Department may at any time seek the expert advice and knowledge of the Board on any matter relating to the enforcement of this Act.

(i) To publish and distribute or to post on the Department's website, at least semi-annually, a newsletter to all persons licensed and registered under this Act. The newsletter shall describe the most recent changes in this Act and the rules adopted under this Act and shall contain information of any final disciplinary action that has been ordered under this Act since the date of the last newsletter.

(j) To contract with a corporation or other business entity to provide investigative, legal, prosecutorial, or other services necessary to perform its duties.

None of the functions, powers or duties enumerated in this Section shall be exercised by the Department except upon the action and report in writing of the Board.

(Source: P.A. 91-92, eff. 1-1-00; 92-145, eff. 1-1-02.)

(225 ILCS 325/7) (from Ch. 111, par. 5207)

(Section scheduled to be repealed on January 1, 2010)

Sec. 7. Powers and duties of the Board. Subject to the provisions of this Act, the Board shall exercise the following functions, powers and duties:

(a) Review education and experience qualifications of applicants, including conducting oral interviews as deemed necessary by the Board, to determine eligibility as an engineer intern or professional engineer and submit to the Director written recommendations on applicant qualifications for enrollment and licensure;

(b) The Board may appoint a subcommittee to serve as a Complaint Committee to recommend the disposition of case files according to procedures established by rule;

(c) Conduct hearings regarding disciplinary actions and submit a written report and

recommendations to the Director as required by this Act and to provide a Board member at informal conferences;

(d) Make visits to universities or colleges to evaluate engineering curricula or to otherwise evaluate engineering curricula and submit to the Director a written recommendation of acceptability of a curriculum;

(e) Submit a written recommendation to the Director concerning promulgation of rules as required in Section 5 and to recommend to the Director any rules or amendments thereto for the administration of this Act;

(f) Hold at least 3 regular meetings each year;

(g) Elect annually a chairperson and a vice-chairperson who shall be professional engineers; and

(h) Submit written comments to the Director within 30 days from notification of any final decision or order from the Director that deviates from any report or recommendation of the Board relating to the qualification of applicants, discipline of licensees or registrants, or promulgation of rules.

(i) Contract with a corporation or other business entity to provide investigative, legal, prosecutorial, or other services necessary to perform its duties.

(Source: P.A. 91-92, eff. 1-1-00.)

(225 ILCS 325/7.5 new)

Sec. 7.5. Complaint Committee.

(a) There is created the Professional Engineer Complaint Committee of the Board composed of 2 voting members of the Board, a Supervisor over Design Investigations, and a Chief of Prosecutions over Design Prosecutions. The Director of Enforcement shall designate the Supervisor and Chief assigned to the Complaint Committee.

(b) The Complaint Committee shall meet at least once every 2 months to exercise its functions and duties as set forth in subsection (c). Two members of the Board shall be in attendance in order for any business to be transacted by the Complaint Committee. The Complaint Committee shall make every effort to consider expeditiously and take prompt action on each item on its agenda.

(c) The Complaint Committee shall have the following duties and functions:

(1) To review any complaint filed against an involved party under this Act.

(2) To refer the complaint to the Supervisor over Design Investigations for further action.

(3) To recommend to the Board that a complaint file be closed.

(4) To make all other decisions in conjunction with the Supervisor over Design Investigations regarding an action to be taken on a complaint.

(5) To report the actions of the Complaint Committee at each meeting of the Board.

(6) To provide an annual statistical report of all complaints filed, the average length of time to resolve a complaint, the number of complaints resolved or dismissed, the reasons for dismissed complaints, the number of complaints that resulted in disciplinary action, and the number of unresolved complaints. Such report shall be made available to the public.

(d) In determining what action to take or whether to proceed with prosecution of a complaint, the Complaint Committee shall consider, but not be limited to, the following factors: the effect on the public's health, safety, and welfare; the sufficiency of the evidence presented; prosecutorial merit; and sufficient cooperation from complaining parties.

(e) No complaint file shall be closed nor complaint dismissed except upon recommendation of the Complaint Committee or approval by the Board.

(f) When a complaint is made to the Department that alleges that a building or other structure that requires the involvement of a professional engineer in its design is under construction, construction is imminent, or construction has been completed and a professional engineer is not or was not involved in its design, the investigation of that complaint shall be expedited to ensure the health and safety of the public. This investigation will be referred to as an emergency investigation.

An emergency investigation will be given priority attention and assigned to an investigator as soon as possible.

Once assigned to an investigator, the Department, through its investigator, must convene a meeting of the Complaint Committee by teleconference to determine if the complaint shall continue to be treated as an emergency investigation. Such meetings shall be deemed an emergency and notice of the meeting shall be provided in accordance with the Open Meetings Act.

Upon determination by the Complaint Committee that the complaint should be treated as an emergency investigation, the complaint must be investigated as soon as possible.

Upon completion of the emergency investigation, the investigator must again convene a meeting of

the Complaint Committee by teleconference. This meeting shall also be considered an emergency and notice of the meeting shall be provided in accordance with the Open Meetings Act. The Complaint Committee must then decide whether to recommend to the Department that the complaint be referred to the Attorney General to seek a temporary restraining order and permanent injunction against the start or further construction of the project or, where the project has already been completed, to enjoin the use of the building or structure. The Complaint Committee shall recommend that the case be referred to the Attorney General only upon a finding that the facts alleged in the complaint are credible and constitute an imminent danger to the public.

(225 ILCS 325/10) (from Ch. 111, par. 5210)

(Section scheduled to be repealed on January 1, 2010)

Sec. 10. Minimum standards for examination for licensure as professional engineer. To qualify for licensure as a professional engineer each applicant shall be:

(a) A graduate of an approved engineering curriculum of at least 4 years who submits acceptable evidence to the Board of an additional 4 years or more of experience in engineering work of a grade and character which indicate that the individual may be competent to practice professional engineering, and who then passes a nominal 8-hour written examination in the fundamentals of engineering, and a nominal 8-hour written examination in the principles and practice of engineering. Upon passing both examinations, the applicant, if otherwise qualified, shall be granted a license to practice professional engineering in this State; or

(b) A graduate of a non-approved engineering curriculum or a related science curriculum of at least 4 years and meeting the requirements as set forth by rule, who submits acceptable evidence to the Board of an additional 8 years or more of experience in engineering work of a grade and character which indicate that the individual may be competent to practice professional engineering, and who then passes a nominal 8-hour written examination in the fundamentals of engineering and a nominal 8-hour written examination in the principles and practice of engineering. Upon passing both examinations, the applicant, if otherwise qualified, shall be granted a license to practice professional engineering in this State; or

(c) An engineer intern ~~who meets the education and experience qualifications of subsection (a) or (b) of this Section and has passed the nominal 8-hour written examination in the fundamentals of engineering~~, by application and payment of the required fee, may then take the nominal 8-hour written examination in the principles and practice of engineering. If an engineer intern successfully completes the ~~Upon passing that~~ examination and submits evidence to the Board of meeting the experience qualifications of subsection (a) or (b) of this Section, he or she ~~the applicant~~, if otherwise qualified, shall be granted a license to practice professional engineering in this State.

(d) When considering an applicant's qualifications for licensure under this Act, the Department may take into consideration whether an applicant has engaged in conduct or actions that would constitute a violation of the Standards of Professional Conduct for this Act as provided for by administrative rules.

(Source: P.A. 91-92, eff. 1-1-00.)

(225 ILCS 325/17) (from Ch. 111, par. 5217)

(Section scheduled to be repealed on January 1, 2010)

Sec. 17. Licensure; Renewal; Restoration; Person in military service. The expiration date and renewal period for each professional engineer license issued under this Act shall be set by the Department by rule. The enrollment of an engineer intern shall not expire.

Any person whose license has expired or whose license is on inactive status may have such license restored by making application to the Department and filing proof acceptable to the Department of that person's fitness to have such license restored, which may include sworn evidence certifying to active practice in another jurisdiction satisfactory to the Department and by paying the required restoration fee. If the person has not maintained an active practice in another jurisdiction satisfactory to the Department, the Board shall determine, by an evaluation program established by rule, the person's fitness to resume active status and may require the person to complete a period of evaluated experience and may require successful completion of the principles and practice examination.

However, any person whose license expired while that person was (1) in Federal Service on active duty with the Armed Forces of the United States, or the State Militia called into service or training, or (2) in training or education under the supervision of the United States preliminary to induction into the military service, may have such license renewed or restored without paying any lapsed renewal fees if, within 2 years after honorable termination of such service, training, or education, except under conditions other than honorable, the Department is furnished with satisfactory evidence that the person has been so engaged and has maintained professional competence and that such service, training or education has been so terminated.

Each application for renewal shall contain the original seal and signature of the professional engineer. Applicants for renewal or restoration shall certify that all conditions of their license meet the requirements of the Illinois Professional Engineering Practice Act of 1989.

The Department may grant the title "Retired" to eligible retirees to be used immediately adjacent to the title of Professional Engineer. The use of the title "PE Retired" shall not constitute representation of current licensure, registration, or certification. Any person without an active license, registration, or certificate shall not be permitted to practice professional engineering.

(Source: P.A. 89-61, eff. 6-30-95.)

(225 ILCS 325/42) (from Ch. 111, par. 5242)

(Section scheduled to be repealed on January 1, 2010)

Sec. 42. Civil penalties.

(1) In addition to any other penalty provided by law, any person, sole proprietorship, professional service corporation, limited liability company, partnership, or other entity who violates Section 40 of this Act shall forfeit and pay to the Design Professionals Administration and Investigation Fund a civil penalty in an amount determined by the Department of not more than $10,000 ~~$5,000~~ for each offense. The penalty shall be assessed in proceedings as provided in Sections 26 through 33 and Section 37 of this Act.

(2) Unless the amount of the penalty is paid within 60 days after the order becomes final, the order shall constitute a judgment and shall be filed and execution issued thereon in the same manner as the judgment of a court of record.

(Source: P.A. 88-595, eff. 8-26-94; 89-61, eff. 6-30-95.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

Senate Floor Amendment No. 2 was held in the Committee on Licensed Activities.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Bond, **Senate Bill No. 2820** having been printed, was taken up, read by title a second time.

Senator Bond offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2820

AMENDMENT NO. 1. Amend Senate Bill 2820 by replacing everything after the enacting clause with the following:

"Section 5. The Property Tax Code is amended by changing Section 12-30 as follows:

(35 ILCS 200/12-30)

Sec. 12-30. Mailed notice of changed assessments; counties of less than 3,000,000.

(a) In every county with less than 3,000,000 inhabitants, in addition to the publication of the list of assessments in each year of a general assessment and of the list of property for which assessments have been added or changed, as provided above, a notice shall be mailed by the chief county assessment officer to each taxpayer whose assessment has been changed since the last preceding assessment, using the address as it appears on the assessor's records, except in the case of changes caused by a change in the county equalization factor by the Department or in the case of changes resulting from equalization by the chief county assessment officer ~~supervisor of assessments~~ under Section 9-210, during any year such change is made. The notice may, but need not be, sent by a township assessor.

(b) The notice sent under this Section shall include the following:

(1) The previous year's assessed value after board of review equalization.

(2) Current assessed value and the date of that valuation.

(3) The percentage change from the previous assessed value to the current assessed value.

(4) The full fair market value (as indicated by dividing the current assessed value by the median level of assessment in the assessment district as determined by the most recent 3 year assessment to sales ratio study adjusted to take into account any changes in assessment levels since the data for the studies were collected).

(5) A statement advising the taxpayer that assessments of property, other than farm land and coal, are required by law to be assessed at 33 1/3% of fair market value.

(6) The name, address, phone number, office hours, and, if one exists, the web site address of the assessor.

(7) Where practicable, the notice shall include the reason for any increase in the property's valuation.

(8) The name and price per copy by mail of the newspaper in which the list of assessments will be published and the scheduled publication date.

(9) A statement advising the taxpayer of the steps to follow if the taxpayer believes the full fair market value of the property is incorrect or believes the assessment is not uniform with other comparable properties in the same neighborhood. The statement shall also (i) advise all taxpayers to contact the township assessor's office first to review the assessment, (ii) advise all taxpayers to file an appeal with the board of review if not satisfied with the assessor review, and (iii) give the phone number to call for a copy of the board of review rules.

(10) A statement advising the taxpayer that there is a deadline date for filing an appeal with the board of review and indicating that deadline date (30 days following the scheduled publication date).

(11) A brief explanation of the relationship between the assessment and the tax bill (including an explanation of the equalization factors) and an explanation that the assessment stated for the preceding year is the assessment after equalization by the board of review in the preceding year.

(12) In bold type, a notice of possible eligibility for the various homestead exemptions as provided in Section 15-165 through Section 15-175 and Section 15-180.

(c) In addition to the requirements of subsection (b) of this Section, in every county with less than 3,000,000 inhabitants, where the chief county assessment officer maintains and controls an electronic database containing the physical characteristics of the property, the notice shall include following:

(1) The physical characteristics of the taxpayer's property that are available from that database; or

(2) A statement advising the taxpayer that detailed property characteristics are available on the county website and the URL address of that website.

(d) In addition to the requirements of subsection (b) of this Section, in every county with less than 3,000,000 inhabitants, where the chief county assessment officer does not maintain and control an electronic database containing the physical characteristics of the property, and where one or more townships in the county maintain and control an electronic database containing the physical characteristics of the property, the notice shall include a statement advising the taxpayer that detailed property characteristics are available on the township website and the URL address of that website.

(e) Except as provided in this Section, the form and manner of providing the information and explanations required to be in the notice shall be prescribed by the Department.

(f) The chief county assessment officer in every county with less than 3,000,000 inhabitants must provide a plain-English explanation of all township, county, and State equalization factors, including the rationale and methods used to determine the equalizations. If a county Internet website exists, this explanation must be published thereon, otherwise it must be available to the public upon request at the office of the chief county assessment officer.

(g) In addition, the board of review in every county with less than 3,000,000 inhabitants must make available to the public a detailed description of the rules and procedures for hearings before the board. This description must include an explanation of any applicable burdens of proof, rules of evidence, time lines, and any other procedures that will allow the taxpayer to effectively present his or her case before the board. If a county Internet website exists, the rules and procedures must also be published on that website. ~~The notice shall include the median level of assessment in the assessment district (as determined by the most recent 3 year assessment to sales ratio study adjusted to take into account any changes in assessment levels since the data for the studies were collected), the previous year's assessed value after board of review equalization, current assessed value and, in bold type, a notice of possible eligibility for a homestead improvement exemption as provided in Section 15-180.~~

~~The notice shall include a statement in substantially the following form:~~

~~"NOTICE TO TAXPAYER~~

~~Your property is to be assessed at the median level of assessment for your assessment district. You may check the accuracy of your assessment by dividing your assessment by the median level of assessment for your assessment district. If the resulting value is greater than the estimated fair cash value of your property, you may be over-assessed. If the resulting value is less than the estimated fair cash value of your property, you may be under-assessed. You may appeal your assessment to the Board of Review in the manner described elsewhere in this notice."~~

~~The notice shall contain a brief explanation of the relationship between the assessment and the tax bill (including an explanation of the equalization factors) and an explanation that the assessment stated for the preceding year is the assessment after equalization by the board of review in the preceding year, and shall set forth the procedures and time limits for appealing assessments and that assessments of property, other than farm land and coal, are required by law to be 33 1/3% of value. Where practicable, the notice~~

~~shall include the reason for any increase in the property's valuation. The notice must also state the name and price per copy by mail of the newspaper in which the list of assessments will be published. The form and manner of providing the information and explanations required to be in the notice shall be prescribed by the Department.~~
(Source: P.A. 87-1189; 88-455; incorporates 88-321; 88-670, eff. 12-2-94.)

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

The motion prevailed.
And the amendment was adopted and ordered printed.
Senate Floor Amendment No. 2 was held in the Committee on Revenue.
There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Cullerton, **Senate Bill No. 2824** having been printed, was taken up, read by title a second time.
Senate Committee Amendment No. 1 was held in the Committee on Rules.
Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2824

AMENDMENT NO. 2. Amend Senate Bill 2824 by replacing everything after the enacting clause with the following:

"Section 5. The Regional Transportation Authority Act is amended by changing Sections 3A.02, 3A.05, and 3A.12 as follows:
(70 ILCS 3615/3A.02) (from Ch. 111 2/3, par. 703A.02)
Sec. 3A.02. Suburban Bus Board. The governing body of the Suburban Bus Division shall be a board consisting of 13 ~~12~~ directors appointed as follows:
(a) Six Directors appointed by the members of the Cook County Board elected from that part of Cook County outside of Chicago, or in the event such Board of Commissioners becomes elected from single member districts, by those Commissioners elected from districts, a majority of the residents of which reside outside of Chicago from the chief executive officers of the municipalities, of that portion of Cook County outside of Chicago. Provided however, that:
(i) One of the Directors shall be the chief executive officer of a municipality within the area of the Northwest Region defined in Section 3A.13;
(ii) One of the Directors shall be the chief executive officer of a municipality within the area of the North Central Region defined in Section 3A.13;
(iii) One of the Directors shall be the chief executive officer of a municipality within the area of the North Shore Region defined in Section 3A.13;
(iv) One of the Directors shall be the chief executive officer of a municipality within the area of the Central Region defined in Section 3A.13;
(v) One of the Directors shall be the chief executive officer of a municipality within the area of the Southwest Region defined in Section 3A.13;
(vi) One of the Directors shall be the chief executive officer of a municipality within the area of the South Region defined in Section 3A.13;
(b) One Director by the Chairman of the Kane County Board who shall be a chief executive officer of a municipality within Kane County;
(c) One Director by the Chairman of the Lake County Board who shall be a chief executive officer of a municipality within Lake County;
(d) One Director by the Chairman of the DuPage County Board who shall be a chief executive officer of a municipality within DuPage County;
(e) One Director by the Chairman of the McHenry County Board who shall be a chief executive officer of a municipality within McHenry County;
(f) One Director by the Chairman of the Will County Board who shall be a chief executive officer of a municipality within Will County;
(g) The Chairman, who after the effective date of this amendatory Act of the 95th General Assembly may not be a resident of the City of Chicago, by the Governor for the initial term, and thereafter by a majority of the Chairmen of the DuPage, Kane, Lake, McHenry and Will County Boards and the members of the Cook County Board elected from that part of Cook County outside of Chicago, or in the

event such Board of Commissioners is elected from single member districts, by those Commissioners elected from districts, a majority of the electors of which reside outside of Chicago; and ~~.~~

(h) The Commissioner of the Mayor's Office for People with Disabilities, from the City of Chicago, who shall serve as an ex-officio member.

Each appointment made under paragraphs (a) through (g) and under Section 3A.03 shall be certified by the appointing authority to the Suburban Bus Board which shall maintain the certifications as part of the official records of the Suburban Bus Board; provided that the initial appointments shall be certified to the Secretary of State, who shall transmit the certifications to the Suburban Bus Board following its organization.

For the purposes of this Section, "chief executive officer of a municipality" includes a former chief executive officer of a municipality within the specified Region or County, provided that the former officer continues to reside within such Region or County.

(Source: P.A. 84-1246.)

(70 ILCS 3615/3A.05) (from Ch. 111 2/3, par. 703A.05)

Sec. 3A.05. Appointment of officers and employees. The Suburban Bus Board shall appoint an Executive Director who shall be the chief executive officer of the Division, appointed, retained or dismissed with the concurrence of 9 ~~8~~ of the directors of the Suburban Bus Board. The Executive Director shall appoint, retain and employ officers, attorneys, agents, engineers, employees and shall organize the staff, shall allocate their functions and duties, fix compensation and conditions of employment, and consistent with the policies of and direction from the Suburban Bus Board take all actions necessary to achieve its purposes, fulfill its responsibilities and carry out its powers, and shall have such other powers and responsibilities as the Suburban Bus Board shall determine. The Executive Director shall be an individual of proven transportation and management skills and may not be a member of the Suburban Bus Board. The Division may employ its own professional management personnel to provide professional and technical expertise concerning its purposes and powers and to assist it in assessing the performance of transportation agencies in the metropolitan region.

No unlawful discrimination, as defined and prohibited in the Illinois Human Rights Act, shall be made in any term or aspect of employment nor shall there be discrimination based upon political reasons or factors. The Suburban Bus Board shall establish regulations to insure that its discharges shall not be arbitrary and that hiring and promotion are based on merit.

The Division shall be subject to the "Illinois Human Rights Act", as now or hereafter amended, and the remedies and procedure established thereunder. The Suburban Bus Board shall file an affirmative action program for employment by it with the Department of Human Rights to ensure that applicants are employed and that employees are treated during employment, without regard to unlawful discrimination. Such affirmative action program shall include provisions relating to hiring, upgrading, demotion, transfer, recruitment, recruitment advertising, selection for training and rates of pay or other forms of compensation.

(Source: P.A. 83-885; 83-886.)

(70 ILCS 3615/3A.12) (from Ch. 111 2/3, par. 703A.12)

Sec. 3A.12. Working Cash Borrowing. The Suburban Bus Board with the affirmative vote of 9 ~~8~~ of its Directors may demand and direct the Board of the Authority to issue Working Cash Notes at such time and in such amounts and having such maturities as the Suburban Bus Board deems proper, provided however any such borrowing shall have been specifically identified in the budget of the Suburban Bus Board as approved by the Board of the Authority. Provided further, that the Suburban Bus Board may not demand and direct the Board of the Authority to have issued and have outstanding at any time in excess of $5,000,000 in Working Cash Notes.

(Source: P.A. 83-886.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Holmes, **Senate Bill No. 2855** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Judiciary Criminal Law, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 2855

AMENDMENT NO. 1. Amend Senate Bill 2855 on page 2, by replacing lines 5 through 11 with the following:

"(3.5) Electronically communicating directly with another person with the intent to commit a violation of Article 11 or Article 12 of the Criminal Code of 1961 with that person, and when the person initiating the communication is 18 years of age or older and the party communicated with is, or is believed to be, under 18 years of age;".

Senator Holmes offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2855

AMENDMENT NO. 2. Amend Senate Bill 2855 on page 2, by inserting immediately below line 18 the following:

"(a-5) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.".

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Holmes offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2855

AMENDMENT NO. 3. Amend Senate Bill 2855, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2, on page 1, line 7, by inserting ", except for willful and wanton misconduct," after "Section".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1, 2 and 3 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Trotter, **Senate Bill No. 2858** having been printed, was taken up, read by title a second time.

Senator Trotter offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2858

AMENDMENT NO. 1. Amend Senate Bill 2858 as follows:

on page 1, by replacing lines 8 through 10 with the following:

"(a) For the purposes of this Section, "trans fat" means fat that is considered trans fat by the U.S. Food and Drug Administration. "Trans fat" does not include naturally occurring trans fat. Food shall be deemed to contain trans fat under this Section if the food is labeled as, lists as an ingredient, or contains any kind of partially hydrogenated vegetable oil, including without limitation vegetable shortening or margarine. However, food shall not be deemed to contain trans fat under this Section if the food contains less than 0.5 grams of trans fat per serving.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Cullerton, **Senate Bill No. 2865** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Public Health, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 2865

AMENDMENT NO. 1. Amend Senate Bill 2865 on page 3, by inserting immediately below line 2 the following:

"(a) "Adequate supply" means an amount of marijuana possessed by a qualified patient or collectively possessed by a qualified patient and the qualified patient's primary caregiver that is determined by rule of the Department to be no more than reasonably necessary to ensure the uninterrupted availability of marijuana for a period of 60 days and that is derived solely from an intrastate source. Until the Department determines what constitutes a 60-day supply of medicine, patients shall be presumed to be in compliance with this Act if they possess no more than 8 plants and two and one-half ounces of usable marijuana."; and

on page 3, line 3, by changing "(a)" to "(a-1)"; and

on page 29, by inserting immediately below line 26 the following:

"Section 50. Exemption from criminal and civil penalties for the medical use of cannabis.

(1) A qualified patient shall not be subject to arrest, prosecution or penalty in any manner for the possession of or the medical use of marijuana if the quantity of marijuana does not exceed an adequate supply.

(2) A qualified patient's primary caregiver shall not be subject to arrest, prosecution or penalty in any manner for the possession of marijuana for medical use by the qualified patient if the quantity of marijuana does not exceed an adequate supply.

Section 55. Adoption of rules by the Department; 60-day supply for qualifying patients.

(1) By July 1, 2009, the Department shall adopt rules defining the quantity of marijuana that could reasonably be presumed to be a 60-day supply for qualifying patients; this presumption may be overcome with evidence of a qualifying patient's necessary medical use.

(2) As used in this Act, "60-day supply" means that amount of marijuana that qualifying patients would reasonably be expected to need over a period of 60 days for their personal medical use. During the rule-making process, the Department shall make a good faith effort to include all stakeholders identified in the rule-making analysis as being impacted by the rule.

(3) Stakeholders shall include, but are not limited to: at least 3 physicians, one of which must have prior experience treating medical marijuana patients and another who specializes in oncology; 2 nurses, one of which must have prior experience treating HIV/AIDS patients; a representative from hospice; a representative from the law enforcement community; a prosecuting attorney currently employed by the state of Illinois; a public defender currently employed by the state of Illinois; a defense attorney in private practice; a licensed phlebotomist, and a horticulturist.

(4) The Department shall gather information from medical and scientific literature, consulting with experts and the public, and reviewing the best practices of other states regarding access to an adequate, safe, consistent, and secure source, including alternative distribution systems, of medical marijuana for qualifying patients. The Department shall report its findings to the General Assembly by July 1, 2009.

(5) Until the Department determines what constitutes a 60-day supply of medicine, patients shall be presumed to be in compliance with this Act if they possess no more than 8 plants and two and one-half ounces of usable marijuana.".

Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2865

AMENDMENT NO. 2. Amend Senate Bill 2865, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Compassionate Use of Medical Marijuana Pilot Program Act.

Section 5. Findings.

(a) Modern medical research has discovered beneficial uses for marijuana in treating or alleviating the pain, nausea, and other symptoms associated with a variety of debilitating medical conditions, as found by the National Academy of Sciences' Institute of Medicine in March 1999.

(b) Subsequent studies since the 1999 National Academy of Sciences' Institute of Medicine report

continue to show the therapeutic value of marijuana in treating a wide array of debilitating medical conditions, including increasing the chances of patients finishing their treatments for HIV/AIDS and hepatitis C.

(c) Data from the Federal Bureau of Investigation's Uniform Crime Reports and the Compendium of Federal Justice Statistics show that approximately 99 out of every 100 marijuana arrests in the U.S. are made under state law, rather than under federal law. Consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill people who have a medical need to use marijuana.

(d) Although federal law currently prohibits any use of marijuana except under very limited circumstances, Alaska, California, Colorado, Hawaii, Maine, Montana, Nevada, New Mexico, Oregon, Vermont, Rhode Island, and Washington have removed state-level criminal penalties from the medical use and cultivation of marijuana. Illinois joins in this effort for the health and welfare of its citizens.

(e) States are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. Therefore, compliance with this Act does not put the State of Illinois in violation of federal law.

(f) State law should make a distinction between the medical and non-medical uses of marijuana. Hence, the purpose of this Act is to protect patients with debilitating medical conditions, as well as their practitioners and primary caregivers, from arrest and prosecution, criminal and other penalties, and property forfeiture if such patients engage in the medical use of marijuana.

(g) The people of the State of Illinois declare that they enact this Act pursuant to the police power to protect the health of its citizens that is reserved to the State of Illinois and its people under the 10th Amendment to the United States Constitution.

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

(a) "Adequate supply" means an amount of marijuana possessed by a qualified patient or collectively possessed by a qualified patient and the qualified patient's primary caregiver that is determined by rule of the Department to be no more than reasonably necessary to ensure the uninterrupted availability of marijuana for a period of 60 days and that is derived solely from an intrastate source. Until the Department determines what constitutes a 60-day supply of medicine, patients shall be presumed to be in compliance with this Act if they possess no more than 7 plants and two ounces of dried usable marijuana.

(a-1) "Cardholder" means a qualifying patient or a primary caregiver who has been issued and possesses a valid registry identification card.

(b) "Debilitating medical condition" means one or more of the following:

(1) cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nail patella, or the treatment of these conditions;

(2) a chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe pain; severe nausea; seizures, including but not limited to those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis; or

(3) any other medical condition or its treatment approved by the Department, as provided for in subsection (a) of Section 20.

(c) "Department" means the Department of Public Health, or its successor agency.

(d) "Enclosed, locked facility" means a closet, room, greenhouse, or other enclosed area equipped with locks or other security devices that permit access only by a registered primary caregiver or registered qualifying patient.

(e) "Felony drug offense" means a violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted. It does not include: (1) an offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed 10 or more years earlier; or (2) an offense that involved conduct that would have been permitted under this Act.

(f) "Marijuana" has the meaning given to the term cannabis in Section 3 of the Cannabis Control Act.

(g) "Medical use" means the acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

(h) "Practitioner" means a person who is licensed with authority to prescribe drugs under Article III of

the Illinois Controlled Substance Act.

(i) "Primary caregiver" means a person who is at least 21 years old, who has agreed to assist with a patient's medical use of marijuana, and who has never been convicted of a felony drug offense. A primary caregiver, other than a medical marijuana organization as defined in this Act may assist no more than one qualifying patient with their medical use of marijuana. A patient may designate only one primary caregiver, except that a patient may designate a medical marijuana organization and one individual primary caregiver.

(j) "Qualifying patient" means a person who has been diagnosed by a practitioner as having a debilitating medical condition.

(k) "Registry identification card" means a document issued by the Department that identifies a person as a registered qualifying patient or registered primary caregiver.

(l) "Usable marijuana" means the dried leaves and flowers of the marijuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant and does not include the weight of other ingredients in marijuana prepared for consumption as food.

(m) "Visiting qualifying patient" means a patient who is not a resident of Illinois or who has been a resident of Illinois less than 30 days.

(n) "Written certification" means a document signed by a practitioner, stating that in the practitioner's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. A written certification shall be made only in the course of a bona fide practitioner-patient relationship after the practitioner has completed a full assessment of the qualifying patient's medical history. The written certification shall specify the qualifying patient's debilitating medical condition.

Section 15. Protections for the medical use of marijuana.

(a) A qualifying patient who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the medical use of marijuana in accordance with this Act, provided that the qualifying patient possesses an amount of marijuana that does not exceed an "adequate supply" as defined in Section 10(a) of this Act of usable marijuana. Such plants shall be kept in an enclosed, locked facility, unless they are being transported because the qualifying patient is moving or if they are being transported to the qualifying patient's property. Any incidental amount of seeds, stalks, and unusable roots shall also be allowed under state law and shall not be included in this amount.

(b) A primary caregiver who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, solely for assisting a qualifying patient to whom he or she is connected through the Department's registration process with the medical use of marijuana in accordance with this Act, provided that the primary caregiver possesses an amount of marijuana that does not exceed an "adequate supply" as defined in Section 10(a) of this Act for the qualifying patient to whom he or she is connected through the Department's registration process. It is the intent of this provision that the total amount possessed between the qualifying patient and caregiver shall not exceed the patient's "adequate supply" as defined in Section 10(a) of this Act. Such plants shall be kept in an enclosed, locked facility, unless they are being transported because the primary caregiver is moving or if they are being transported to a primary caregiver's or a qualifying patient's property. Any incidental amount of seeds, stalks, and unusable roots shall also be allowed under state law and shall not be included in this amount.

(c) (1) There shall be a presumption that a qualifying patient or primary caregiver is engaged in the medical use of marijuana in accordance with this Act if the qualifying patient or primary caregiver:

(A) is in possession of a registry identification card; and

(B) is in possession of an amount of marijuana that does not exceed the amount allowed under this Act.

(2) The presumption may be rebutted by evidence that conduct related to marijuana was not for the purpose of treating or alleviating the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, in accordance with this Act.

(d) A cardholder shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, solely for giving marijuana to a registered qualifying patient or a registered primary caregiver for the registered qualifying patient's medical use

where nothing of value is transferred in return, or to offer to do the same.

(e) No school, employer, or landlord may refuse to enroll or employ or lease to, or otherwise penalize a person solely for his or her status as a registered qualifying patient or a registered primary caregiver, unless failing to do so would put the school, employer, or landlord in violation of federal law or cause it to lose a federal contract or funding.

(f) A person shall not be denied custody or visitation of a minor for acting in accordance with this Act, unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.

(g) A registered primary caregiver may receive compensation for costs associated with assisting a registered qualifying patient's medical use of marijuana, provided that registered primary caregiver is connected to the registered qualifying patient through the Department's registration process. Any such compensation shall not constitute the sale of controlled substances.

(h) A practitioner shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by the Medical Disciplinary Board or by any other business or occupational or professional licensing board or bureau, solely for providing written certifications or for otherwise stating that, in the practitioner's professional opinion, a patient is likely to receive therapeutic benefit from the medical use of marijuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition, provided that nothing shall prevent a professional licensing board from sanctioning a practitioner for failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions.

(i) A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, solely for providing a registered qualifying patient or a registered primary caregiver with marijuana paraphernalia for purposes of a qualifying patient's medical use of marijuana.

(j) Any marijuana, marijuana paraphernalia, licit property, or interest in licit property that is possessed, owned, or used in connection with the medical use of marijuana, as allowed under this Act, or acts incidental to such use, shall not be seized or forfeited.

(k) A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, simply for being in the presence or vicinity of the medical use of marijuana as allowed under this Act, or for assisting a registered qualifying patient with using or administering marijuana. This provision, however, shall not be construed to allow the consumption of marijuana by persons other than qualifying patients.

(l) A registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marijuana by a visiting qualifying patient, shall have the same force and effect as a registry identification card issued by the Department.

(m) Any cardholder who sells marijuana to a person who is not allowed to use marijuana for medical purposes under this Act shall have his or her registry identification card revoked, and is liable for any other penalties for the sale of marijuana. The Department may revoke the registry identification card of any cardholder who violates this Act, and the cardholder shall be liable for any other penalties for the violation.

Section 20. Department to issue rules.

(a) Not later than 120 days after the effective date of this Act, the Department shall promulgate rules governing the manner in which it shall consider petitions from the public to add debilitating medical conditions to the list of debilitating medical conditions set forth in subsection (b) of Section 10 of this Act. In considering such petitions, the Department shall include public notice of, and an opportunity to comment in a public hearing upon, such petitions. The Department shall, after hearing, approve or deny such petitions within 180 days of submission of the petition. The approval or denial of such a petition shall be considered a final Department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Circuit Court.

(b) Not later than 120 days after the effective date of this Act, the Department shall promulgate rules governing the manner in which it shall consider applications for and renewals of registry identification cards for qualifying patients and primary caregivers. The Department's rules shall establish application and renewal fees that generate revenues sufficient to offset all expenses of implementing and administering this Act. The fee shall include an additional $2 per registry identification card which shall

be allocated to drug treatment and prevention. The Department may establish a sliding scale of application and renewal fees based upon a qualifying patient's family income. The Department may accept donations from private sources in order to reduce the application and renewal fees.

Section 25. Administering the Department's rules.

(a) The Department shall issue registry identification cards to up to 1,2000 qualifying patients who submit the following, in accordance with the Department's rules:

(1) written certification;

(2) application or renewal fee;

(3) name, address, and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;

(4) name, address, and telephone number of the qualifying patient's practitioner; and

(5) name, address, and date of birth of each primary caregiver, if any, of the qualifying patient.

(a)(1) The Department shall not issue more than 1,200 active patient identification cards at any given time. If this limitation is reached the Department shall notify persons making application that his or her application will be processed as cards expire or are revoked or as cards become inactive do to the death of patients. Pending applications shall be processed in the order received. This limitation does not include cards issued to primary caregivers and medical marijuana organizations.

(b) The Department shall not issue a registry identification card to a qualifying patient who is under the age of 18 unless:

(1) The qualifying patient's practitioner has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to a parent, guardian, or person having legal custody of the qualifying patient; and

(2) The parent, guardian, or person having legal custody consents in writing to:

(A) allow the qualifying patient's medical use of marijuana;

(B) serve as one of the qualifying patient's primary caregivers; and

(C) control the acquisition of the marijuana, the dosage, and the frequency of the medical use of marijuana by the qualifying patient.

(c) The Department shall verify the information contained in an application or renewal submitted pursuant to this Section, and shall approve or deny an application or renewal within 15 days of receiving it. The Department may deny an application or renewal only if the applicant did not provide the information required pursuant to this Section, or if the Department determines that the information provided was falsified. Rejection of an application or renewal is considered a final Department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Illinois Circuit Court.

(d) The Department shall issue a registry identification card to each primary caregiver, if any, who is named in a qualifying patient's approved application, up to a maximum of 2 primary caregivers per qualifying patient.

(e) The Department shall issue registry identification cards within 5 days of approving an application or renewal, which shall expire one year after the date of issuance. Registry identification cards shall contain all of the following:

(1) Name, address, and date of birth of the qualifying patient;

(2) Name, address, and date of birth of each primary caregiver, if any, of the qualifying patient;

(3) The date of issuance and expiration date of the registry identification card;

(4) A random identification number that is unique to the cardholder; and

(5) A photograph, if the Department decides to require one.

(f) (1) A registered qualifying patient shall notify the Department of any change in the registered qualifying patient's name, address, or primary caregiver, or if the registered qualifying patient ceases to have his or her debilitating medical condition, within 10 days of such change.

(2) A registered qualifying patient who fails to notify the Department of any of these changes is responsible for a civil infraction, punishable by a fine of no more than $150. If the registered qualifying patient's certifying practitioner notifies the Department in writing that the registered qualifying patient has ceased to suffer from a debilitating medical condition, the card shall become null and void upon notification by the Department to the qualifying patient.

(3) A registered primary caregiver shall notify the Department of any change in his or her name or address within 10 days of such change. A registered primary caregiver who fails to notify the Department of any of these changes is responsible for a civil infraction, punishable by a fine of no

more than $150.

(4) When a registered qualifying patient or registered primary caregiver notifies the Department of any changes listed in this subsection, the Department shall issue the registered qualifying patient and each registered primary caregiver a new registry identification card within 10 days of receiving the updated information and a $10 fee.

(5) When a registered qualifying patient changes his or her registered primary caregiver, the Department shall notify the primary caregiver within 10 days. The registered primary caregiver's protections as provided in this Act shall expire 10 days after notification by the Department.

(6) If a registered qualifying patient or registered primary caregiver loses his or her registry identification card, he or she shall notify the Department and submit a $10 fee within 10 days of losing the card. Within 5 days after such notification, the Department shall issue a new registry identification card with a new random identification number.

(g) Possession of, or application for, a registry identification card shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the person or property of the person possessing or applying for the registry identification card.

(h) The following confidentiality rules shall apply:

(1) Applications and supporting information submitted by qualifying patients, including information regarding their primary caregivers and practitioners, are confidential.

(2) The Department shall maintain a confidential list of the persons to whom the Department has issued registry identification cards. Individual names and other identifying information on the list shall be confidential, exempt from the Freedom of Information Act, and not subject to disclosure, except to authorized employees of the Department as necessary to perform official duties of the Department.

(3) The Department shall verify to law enforcement personnel whether a registry identification card is valid, without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.

(4) It is a Class B misdemeanor for any person, including an employee or official of the Department or another state agency or local government, to breach the confidentiality of information obtained pursuant to this Act. Notwithstanding this provision, Department employees may notify law enforcement about falsified or fraudulent information submitted to the Department, so long as the employee who suspects that falsified or fraudulent information has been submitted confers with his or her supervisor (or at least one other employee of the Department) and both agree that circumstances exist that warrant reporting.

(i) The Department shall submit to the General Assembly an annual report that does not disclose any identifying information about qualifying patients, primary caregivers, or practitioners, but does contain, at a minimum, all of the following information:

(1) The number of applications and renewals filed for registry identification cards.

(2) The number of qualifying patients and primary caregivers approved in each county.

(3) The nature of the debilitating medical conditions of the qualifying patients.

(4) The number of registry identification cards revoked.

(5) The number of practitioners providing written certifications for qualifying patients.

(j) Where a state-funded or locally funded law enforcement agency encounters an individual who, during the course of the investigation, credibly asserts that he or she is a registered qualifying patient or registered primary caregiver, the law enforcement agency shall not provide any information from any marijuana-related investigation of the person to any law enforcement authority that does not recognize the protection of this Act and any prosecution of the individual for a violation of this Act shall be conducted pursuant to the laws of this State.

Section 30. Scope of Act.

(a) This Act shall not permit any person to do any of the following:

(1) Undertake any task under the influence of marijuana, when doing so would constitute negligence or professional malpractice.

(2) Possess marijuana, or otherwise engage in the medical use of marijuana:

(A) in a school bus;

(B) on the grounds of any preschool or primary or secondary school; or

(C) in any correctional facility.

(3) Smoke marijuana:
(A) on any form of public transportation; or
(B) in any public place.
(4) Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marijuana. However, a registered qualifying patient shall not be considered to be under the influence of marijuana solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment.
(b) Nothing in this Act shall be construed to require:
(1) A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana; or
(2) An employer to accommodate the ingestion of marijuana in any workplace or any employee working while under the influence of marijuana, provided that a qualifying patient shall not be considered to be under the influence of marijuana solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment.
(c) Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution is a petty offense punishable by a fine of $500, which shall be in addition to any other penalties that may apply for making a false statement or for the use of marijuana other than use undertaken pursuant to this Act.

Section 35. Affirmative defense and dismissal for medical marijuana.
(a) Except as provided in Section 30, a patient and a patient's primary caregiver, if any, may assert the medical purpose for using marijuana as a defense to any prosecution involving marijuana, and this defense shall be presumed valid where the evidence shows that:
(1) A practitioner has stated that, in the practitioner's professional opinion, after having completed a full assessment of the patient's medical history and current medical condition made in the course of a bona fide practitioner-patient relationship, the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the patient's serious or debilitating medical condition; and
(2) The patient and the patient's primary caregiver, if any, were collectively in possession of a quantity of marijuana that was not more than was reasonably necessary to ensure the uninterrupted availability of marijuana for the purpose of treating or alleviating the patient's serious or debilitating medical condition or symptoms associated with the patient's serious or debilitating medical condition; and
(3) The patient and the patient's primary caregiver, if any, were engaged in the acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the patient's serious or debilitating medical condition.
(b) A person may assert the medical purpose for using marijuana in a motion to dismiss, and the charges shall be dismissed following an evidentiary hearing where the person shows the elements listed in subsection (a).
(c) If a patient or a patient's primary caregiver demonstrates the patient's medical purpose for using marijuana pursuant to this Section, the patient and the patient's primary caregiver shall not be subject to the following for the patient's use of marijuana for medical purposes:
(1) disciplinary action by a business or occupational or professional licensing board or bureau; or
(2) forfeiture of any interest in or right to property.

Section 40. Enforcement of this Act.
(a) If the Department fails to adopt rules to implement this Act within 120 days of the effective date of this Act, a qualifying patient may commence an action in the Circuit Court to compel the Department to perform the actions mandated pursuant to the provisions of this Act.
(b) If the Department fails to issue a valid registry identification card in response to a valid application or renewal submitted pursuant to this Act within 20 days of its submission, the registry identification card shall be deemed granted, and a copy of the registry identification application or renewal shall be deemed a valid registry identification card.
(c) If at any time after the 140 days following the effective date of this Act the

Department is not accepting applications, including if it has not created rules allowing qualifying patients to submit applications, a notarized statement by a qualifying patient containing the information required in an application, pursuant to clauses (a)(2) through (a)(5) of Section 25 together with a written certification shall be deemed a valid registry identification card.

Section 45. Medical marijuana organization.

(a) Definition. For purposes of this Section, "medical marijuana organization" means an entity registered under this Section that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, or dispenses marijuana, or related supplies and educational materials, to registered qualifying patients and their registered primary caregivers. A medical marijuana organization is a primary caregiver. All provisions of this Act pertaining to a primary caregiver shall apply to a medical marijuana organization unless they conflict with a provision contained in this Section. A medical marijuana organization shall supply marijuana to any number of registered qualifying patients who have designated it as one of their primary caregivers.

(b) Registration requirements.

(1) The Department shall register a medical marijuana organization and issue a registration certificate within 20 days to any person or entity that provides:

(A) A fee paid to the Department in the amount of $5,000;

(B) The legal name of the medical marijuana organization;

(C) The physical address of the medical marijuana organization and the physical address of one additional location, if any, where marijuana will be cultivated;

(D) The name, address, and date of birth of each principal officer and board member of the medical marijuana organization;

(E) The name, address, and date of birth of any person who is an agent of or employed by the medical marijuana organization.

(2) The Department shall track the number of registered qualifying patients who designate each medical marijuana organization as a primary caregiver, and issue a written statement to the medical marijuana organization of the number of qualifying patients who have designated the medical marijuana organization to serve as a primary caregiver for them. This statement shall be updated each time a new registered qualifying patient designates the medical marijuana organization or ceases to designate the medical marijuana organization and may be transmitted electronically if the Department's rules so provide. The Department may provide by rule that the updated written statements will not be issued more frequently than twice each week.

(3) The Department shall issue each principal officer, board member, agent, and employee of a medical marijuana organization a registry identification card within 10 days of receipt of the person's name, address, date of birth, and a fee in an amount established by the Department. Each card shall specify that the cardholder is a principal officer, board member, agent, or employee of a medical marijuana organization and shall contain the following:

(A) The name, address, and date of birth of the principal officer, board member, agent or employee;

(B) The legal name of the medical marijuana organization to which the principal officer, board member, agent, or employee is affiliated;

(C) A random identification number that is unique to the cardholder;

(D) The date of issuance and expiration date of the registry identification card; and

(E) A photograph, if the Department decides to require one.

(4) The Department shall not issue a registry identification card to any principal officer, board member, agent, or employee of a medical marijuana organization who has been convicted of a felony drug offense. The Department may conduct a background check of each principal officer, board member, agent, or employee in order to carry out this provision. The Department shall notify the medical marijuana organization in writing of the purpose for denying the registry identification card. However, the Department shall grant such person a registry identification card if the Department determines that the person's conviction was for the medical use of marijuana or assisting with the medical use of marijuana.

(c) Authority of the Department. Not later than 120 days after the effective date of this Act, the Department shall promulgate rules governing the manner in which it shall consider applications for and renewals of registration certificates for medical marijuana organizations, including rules governing:

(1) The form and content of registration and renewal applications;

(2) Minimum oversight requirements for medical marijuana organizations;

(3) Minimum record-keeping requirements for medical marijuana organizations;

(4) Minimum security requirements for medical marijuana organizations; and

(5) Procedures for suspending or terminating the registration of medical marijuana organizations that violate the provisions of this Section or the rules promulgated pursuant to this subsection.

(d) Expiration. A medical marijuana organization registration certificate and the registry identification card for each principal officer, board member, agent, or employee shall expire one year after the date of issuance. The Department shall issue a renewal medical marijuana organization registration certificate and renewal registry identification cards within 10 days to any person who complies with the requirements contained in subsection (b) of this Section.

(e) Inspection. Medical marijuana organizations are subject to reasonable inspection by the Department.

(f) Medical marijuana organization requirements.

(1) A medical marijuana organization may not be located within 500 feet of the property line of a preexisting public or private school.

(2) A medical marijuana organization shall notify the Department within 10 days of when a principal officer, board member, agent, or employee ceases to work at the medical marijuana organization.

(3) A medical marijuana organization shall notify the Department in writing of the name, address, and date of birth of any new principal officer, board member, agent, or employee and shall submit a fee in an amount established by the Department for a new registry identification card before a new agent or employee begins working at the medical marijuana organization.

(4) A medical marijuana organization shall implement appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana.

(5) The operating documents of a medical marijuana organization shall include procedures for the oversight of the medical marijuana organization and procedures to ensure accurate record keeping.

(6) A medical marijuana organization is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying, or dispensing marijuana for any purpose except to assist registered qualifying patients with the medical use of marijuana directly or through the qualifying patients' other primary caregiver.

(7) All principal officers and board members of a medical marijuana organization must be residents of the State of Illinois.

(g) Immunity.

(1) No registered medical marijuana organization shall be subject to prosecution, search, seizure, or penalty in any manner or denied any right or privilege, including but not limited to, civil penalty or disciplinary action by a business, occupational, or professional licensing board or entity, solely for acting in accordance with this Section to assist registered qualifying patients to whom it is connected through the Department's registration process with the medical use of marijuana.

(2) No principal officers, board members, agents, or employees of a registered medical marijuana organization shall be subject to arrest, prosecution, search, seizure, or penalty in any manner or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business, occupational, or professional licensing board or entity, solely for working for or with a medical marijuana organization in accordance with this Act.

(h) Prohibitions.

(1) A medical marijuana organization may not possess an amount of marijuana that exceeds the total of the allowable amounts of marijuana for the registered qualifying patients for whom the medical marijuana organization is a registered primary caregiver.

(2) A medical marijuana organization may not dispense, deliver, or otherwise transfer marijuana to a person other than a qualifying patient who has designated the medical marijuana organization as a primary caregiver or to such patient's primary caregiver.

(3) A medical marijuana organization may not obtain marijuana from outside the State of Illinois.

(4) A person convicted of violating paragraph (2) of this subsection may not be an employee, agent, principal officer, or board member of any medical marijuana organization, and such person's registry identification card shall be immediately revoked.

(5) No person who has been convicted of a felony drug offense may be the principal officer, board member, agent, or employee of a medical marijuana organization unless the Department has determined that the person's conviction was for the medical use of marijuana or assisting with the

medical use of marijuana and issued the person a registry identification card as provided under subsection (b)(3). A person who is employed by or is an agent, principal officer, or board member of a medical marijuana organization in violation of this Section is guilty of a civil violation punishable by a fine of up to $1,000. A subsequent violation of this Section is a Class B misdemeanor.

Section 50. Repeal of Act. This Act is repealed 3 years after its effective date.

Section 95. The Cannabis Control Act is amended by changing Section 8 as follows:

(720 ILCS 550/8) (from Ch. 56 1/2, par. 708)

Sec. 8. (1) It is unlawful for any person knowingly to produce the cannabis sativa plant or to possess such plants or to deliver such plants unless production or possession has been authorized pursuant to the provisions of the Compassionate Use of Medical Marijuana Pilot Program Act ~~Section 11 of the Act~~. Any person who violates this Section with respect to production or possession of:

(a) Not more than 5 plants is guilty of a Class A misdemeanor, except that a violation under paragraph (2) of this Section is a Class 4 felony.

(b) More than 5, but not more than 20 plants, is guilty of a Class 4 felony, except that a violation under paragraph (2) of this Section is a Class 3 felony.

(c) More than 20, but not more than 50 plants, is guilty of a Class 3 felony.

(d) More than 50, but not more than 200 plants, is guilty of a Class 2 felony, except that a violation under paragraph (2) of this Section is a Class 1 felony, for which a fine not to exceed $100,000 may be imposed and for which liability for the cost of conducting the investigation and eradicating such plants may be assessed. Compensation for expenses incurred in the enforcement of this provision shall be transmitted to and deposited in the treasurer's office at the level of government represented by the Illinois law enforcement agency whose officers or employees conducted the investigation or caused the arrest or arrests leading to the prosecution, to be subsequently made available to that law enforcement agency as expendable receipts for use in the enforcement of laws regulating controlled substances and cannabis. If such seizure was made by a combination of law enforcement personnel representing different levels of government, the court levying the assessment shall determine the allocation of such assessment. The proceeds of assessment awarded to the State treasury shall be deposited in a special fund known as the Drug Traffic Prevention Fund.

(e) More than 200 plants is guilty of a Class 1 felony, except that a violation under paragraph (2) of this Section is a Class X felony, for which a fine not to exceed $100,000 may be imposed and for which liability for the cost of conducting the investigation and eradicating such plants may be assessed. Compensation for expenses incurred in the enforcement of this provision shall be transmitted to and deposited in the treasurer's office at the level of government represented by the Illinois law enforcement agency whose officers or employees conducted the investigation or caused the arrest or arrests leading to the prosecution, to be subsequently made available to that law enforcement agency as expendable receipts for use in the enforcement of laws regulating controlled substances and cannabis. If such seizure was made by a combination of law enforcement personnel representing different levels of government, the court levying the assessment shall determine the allocation of such assessment. The proceeds of assessment awarded to the State treasury shall be deposited in a special fund known as the Drug Traffic Prevention Fund.

(2) Any person authorized pursuant to the provisions of the Compassionate Use of Medical Marijuana Pilot Program Act to produce or possess the cannabis sativa plant, who knowingly produces the cannabis sativa plant or possesses such plants or delivers such plants except as provided for in the Compassionate Use of Medical Marijuana Pilot Program Act, is guilty of violating this Section. Any violation of this paragraph (2) shall be punished according to the number of plants involved in the violation as provided in paragraph (1) of this Section.

(Source: P.A. 95-247, eff. 1-1-08.)

(720 ILCS 550/11 rep.) (720 ILCS 550/15 rep.)

Section 96. The Cannabis Control Act is amended by repealing Sections 11 and 15.

Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Noland, **Senate Bill No. 2873** having been printed, was taken up, read by title a second time.

Senator Noland offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2873

AMENDMENT NO. 1. Amend Senate Bill 2873 on page 3, by replacing lines 7 through 16 with the following:

"this State for the taxable year. For taxable years ending on or after December 31, 2008, the credit provided under this paragraph for tax paid to other states shall not exceed that amount which bears the same ratio to the tax imposed by subsections 201(a) and (b) otherwise due under this Act as the amount of the taxpayer's base income that would be allocated or apportioned to other states if all other states had adopted the provisions in Article 3 of this Act bears to the taxpayer's total base income subject to tax by this State for the taxable year. The credit provided by this paragraph".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Noland, **Senate Bill No. 2874** having been printed, was taken up, read by title a second time.

Senator Noland offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2874

AMENDMENT NO. 1. Amend Senate Bill 2874 on page 1, line 18, by replacing "In" with "Except where prohibited by federal law or regulation, in"; and

on page 13, lines 15 and 16, by replacing "highly restricted personal information" with "social security numbers".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Schoenberg, **Senate Bill No. 2882** having been printed, was taken up, read by title a second time.

The following amendments were offered in the Committee on Revenue, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 2882

AMENDMENT NO. 1. Amend Senate Bill 2882 by replacing everything after the enacting clause with the following:

"Section 5. The Property Tax Code is amended by changing Sections 9-260, 9-265, 9-270, and 14-35 as follows:

(35 ILCS 200/9-260)

Sec. 9-260. Assessment of omitted property; counties of 3,000,000 or more.

(a) After signing the affidavit, the county assessor shall have power, when directed by the board of appeals (until the first Monday in December 1998 and the board of review beginning the first Monday in December 1998 and thereafter), or on his or her own initiative, to assess properties which may have been omitted from assessments for the current year or during any year or years for which the property was liable to be taxed, and for which the tax has not been paid, but only on notice and an opportunity to be heard in the manner and form required by law, and in accordance with subsections (a-1) and (a-2), and shall enter the assessments upon the assessment books. No charge for tax of previous years shall be

made against any property if (a) the property was last assessed as unimproved, (b) the owner of such property gave notice of subsequent improvements and requested a reassessment as required by Section 9-180, and (c) reassessment of the property was not made within the 16 month period immediately following the receipt of that notice.

(a-1) The assessor shall mail, by registered or certified mail, return receipt requested, a "Notice of Intent to List Omitted Assessments". The notice shall be sent to the current owner of the property for which the omitted assessments are being listed. The notice shall state that the current owner of the property is responsible only for any taxes based on the omitted assessments for the years in which he or she owned the property. The notice shall advise the current owner of a hearing and a hearing date on the omitted assessments, and that the omitted assessments may be discussed or contested at that time. The notice shall include a provision for a person who is not the current owner of the property and received the notice in error to respond to the Assessor that the notice was received in error by telephone or registered or certified mail, return receipt requested, listing a contact person, address, and phone number.

(a-2) The assessor shall develop reasonable rules with respect to the valuation of omitted property under this Division, which shall include the notice provisions of subsection (a-1) and procedures by which property owners may challenge omitted assessments under this Division. The rules shall be published on the Assessor's website and maintained in the various assessment offices.

(a-3) The assessor shall render a decision following the date of the scheduled hearing on the omitted assessments whether or not the property owner made an appearance at the hearing. Notice of the decision shall be mailed to the property owner and shall contain a statement that the decision may be appealed to the board of review.

(b) Any taxes based on the omitted assessment of a property pursuant to Sections 9-260 through 9-270 and Sections 16-135 and 16-140 shall be prepared and mailed at the same time as the second installment tax bill is prepared and mailed ~~estimated first installment property tax bill for the preceding year (as described in Section 21-30) is prepared and mailed~~. The omitted assessment tax bill is not due until the date on which the second installment property tax bill for the preceding year becomes due. The omitted assessment tax bill shall be deemed delinquent and shall bear interest beginning on the day after the due date of the second installment (as described in Section 21-25). Any taxes for omitted assessments deemed delinquent after the due date of the second installment tax bill shall bear interest at the rate of 1.5% per month or portion thereof until paid or forfeited (as described in Section 21-25).

(c) The assessor shall have no power to change the assessment or alter the assessment books in any other manner or for any other purpose so as to change or affect the taxes in that year, except as ordered by the board of appeals (until the first Monday in December 1998 and the board of review beginning the first Monday in December 1998 and thereafter). The county assessor shall make all changes and corrections ordered by the board of appeals (until the first Monday in December 1998 and the board of review beginning the first Monday in December 1998 and thereafter). The county assessor may for the purpose of revision by the board of appeals (until the first Monday in December 1998 and the board of review beginning the first Monday in December 1998 and thereafter) certify the assessment books for any town or taxing district after or when such books are completed.

(Source: P.A. 93-560, eff. 8-20-03.)

(35 ILCS 200/9-265)

Sec. 9-265. Omitted property; interest; change in exempt use or ownership. If any property is omitted in the assessment of any year or years, so that the taxes, for which the property was liable, have not been paid, or if by reason of defective description or assessment, taxes on any property for any year or years have not been paid, or if any taxes are refunded under subsection (b) of Section 14-5 because the taxes were assessed in the wrong person's name, the property, when discovered, shall be listed and assessed by the board of review or, in counties with 3,000,000 or more inhabitants, by the county assessor either on his or her own initiative or when so directed by the board of appeals or board of review. For purposes of this Section, "defective description or assessment" includes a description or assessment which omits all the improvements thereon as a result of which part of the taxes on the total value of the property as improved remain unpaid. In the case of property subject to assessment by the Department, the property shall be listed and assessed by the Department. All such property shall be placed on the assessment and tax books. The arrearages of taxes which might have been assessed, with 1.8% interest thereon for those assessments of $50,000 or less and 10% interest thereon for those assessments of more than $50,000 for each year or portion thereof from 2 years after the time the first correct tax bill ought to have been received, shall be charged against the property by the county clerk.

When property or acreage omitted by either incorrect survey or other ministerial assessor error is discovered and the owner has paid its tax bills as received for the year or years of omission of the parcel, then the interest authorized by this Section shall not be chargeable to the owner. However, nothing in

this Section shall prevent the collection of the principal amount of back taxes due and owing.

If any property listed as exempt by the chief county assessment officer has a change in use, a change in leasehold estate, or a change in titleholder of record by purchase, grant, taking or transfer, it shall be the obligation of the transferee to notify the chief county assessment officer in writing within 30 days of the change. The notice shall be sent by certified mail, return receipt requested, and shall include the name and address of the taxpayer, the legal description of the property, and the property index number of the property when an index number exists. If the failure to give the notification results in the assessing official continuing to list the property as exempt in subsequent years, the property shall be considered omitted property for purposes of this Code.

(Source: P.A. 88-455; 89-126, eff. 7-11-95; 89-671, eff. 8-14-96.)

(35 ILCS 200/9-270)

Sec. 9-270. Omitted property; limitations on assessment. Before charging a tax and interest for previous years, the county assessor shall identify the owner of the property for the years for which the liability accrued. A charge for tax and interest for previous years, as provided in Sections 9-265 or 14-40, shall not be made against any property for years prior to the date of ownership of the person owning the property at the time the liability for the omitted tax was first ascertained. Ownership as used in this section shall be held to refer to bona fide legal and equitable titles or interests acquired for value and without notice of the tax, as may appear by deed, deed of trust, mortgage, certificate of purchase or sale, or other form of contract. No charge for tax of previous years, as provided in Section 9-265, shall be made against any property if (a) the property was last assessed as unimproved, (b) the owner of the property gave notice of subsequent improvements and requested a reassessment as required by Section 9-180, and (c) reassessment of the property was not made within the 16 month period immediately following the receipt of that notice. The owner of property, if known, assessed under this and the preceding section shall be notified by the county assessor, board of review or Department, as the case may require.

(Source: P.A. 86-359; 88-455.)

(35 ILCS 200/14-35)

Sec. 14-35. Hearings by county assessor; counties of 3,000,000 or more. In counties with 3,000,000 or more inhabitants, the county assessor each year shall sit for the purpose of revising the assessments. The time of the sittings shall be set by the county assessor by notice as herein provided after the assessment books for one or more townships or taxing districts have been completed. The assessments for one or more townships or taxing districts may be revised at any sitting which may be adjourned from day to day as necessary. At least one week before each sitting the county assessor shall publish a notice, in some newspaper of general circulation published in the county, of the time and place of the sitting, the township or townships, taxing district or taxing districts for which the assessments will be considered at the sitting, and the time within which applications for revisions of assessment may be made by taxpayers. The county assessor shall, upon completion of the revision of assessments, and the assessment of omitted properties under Section 9-260, for any township or taxing district, deliver the assessment books for the township or taxing district to the board of appeals (until the first Monday in December 1998 and the board of review beginning on the first Monday in December 1998 and thereafter).

(Source: P.A. 88-455; 89-126, eff. 7-11-95; 89-671, eff. 8-14-96.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Schoenberg offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2882

AMENDMENT NO. 2. Amend Senate Bill 2882, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Property Tax Code is amended by changing Section 9-265 as follows:

(35 ILCS 200/9-265)

Sec. 9-265. Omitted property; interest; change in exempt use or ownership. If any property is omitted in the assessment of any year or years, so that the taxes, for which the property was liable, have not been paid, or if by reason of defective description or assessment, taxes on any property for any year or years have not been paid, or if any taxes are refunded under subsection (b) of Section 14-5 because the taxes were assessed in the wrong person's name, the property, when discovered, shall be listed and assessed by the board of review or, in counties with 3,000,000 or more inhabitants, by the county assessor either on his or her own initiative or when so directed by the board of appeals or board of review. The board of

review in counties with less than 3,000,000 inhabitants or the county assessor in counties with 3,000,000 or more inhabitants may develop reasonable procedures for the valuation of omitted property under this Division. For purposes of this Section, "defective description or assessment" includes a description or assessment which omits all the improvements thereon as a result of which part of the taxes on the total value of the property as improved remain unpaid. In the case of property subject to assessment by the Department, the property shall be listed and assessed by the Department. All such property shall be placed on the assessment and tax books. The arrearages of taxes which might have been assessed, with 10% interest thereon for each year or portion thereof from 2 years after the time the first correct tax bill ought to have been received, shall be charged against the property by the county clerk.

When property or acreage omitted by either incorrect survey or other ministerial assessor error is discovered and the owner has paid its tax bills as received for the year or years of omission of the parcel, then the interest authorized by this Section shall not be chargeable to the owner. However, nothing in this Section shall prevent the collection of the principal amount of back taxes due and owing.

If any property listed as exempt by the chief county assessment officer has a change in use, a change in leasehold estate, or a change in titleholder of record by purchase, grant, taking or transfer, it shall be the obligation of the transferee to notify the chief county assessment officer in writing within 30 days of the change. The notice shall be sent by certified mail, return receipt requested, and shall include the name and address of the taxpayer, the legal description of the property, and the property index number of the property when an index number exists. If the failure to give the notification results in the assessing official continuing to list the property as exempt in subsequent years, the property shall be considered omitted property for purposes of this Code.

(Source: P.A. 88-455; 89-126, eff. 7-11-95; 89-671, eff. 8-14-96.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Cullerton, **Senate Bill No. 2128,** having been printed, was taken up, read by title a second time and ordered to a third reading.

Senator Risinger asked and obtained unanimous consent to recess for the purpose of a Republican caucus.

At the hour of 6:02 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 6:35 o'clock p.m., the Senate resumed consideration of business.

Senator Hendon, presiding.

PRESENTATION OF RESOLUTION

Senator Silverstein offered the following Senate Resolution, which was referred to the Committee on Rules:

SENATE RESOLUTION NO. 656

WHEREAS, Article V, Section 11 of the Illinois Constitution authorizes the Governor to reorganize executive agencies that are directly responsible to the Governor; and

WHEREAS, Article V, Section 11 also provides that if the proposed reorganization would contravene a statute, it may be disapproved within 60 days by either house of the General Assembly by record vote of a majority of the members elected; and

WHEREAS, The Governor has issued Executive Order No. 1 (2008), which reorganizes certain agencies designated as "Environmental and Economic Development Affected Agencies", "Healthcare Affected Agencies", and "Social Services Affected Agencies" by transferring certain common administrative functions and common application development functions from those agencies to the Department of Transportation, the Department of Healthcare and Family Services, and the Department of Human Services and creating within each of those 3 agencies a Division of Shared Services; and

WHEREAS, The proposed reorganization would contravene numerous statutes, including those listed in Executive Order No. 1 (2008); and

WHEREAS, Executive Order No. 1 (2008) was filed with the Secretary of the Senate on March 31, 2008; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-FIFTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we disapprove Executive Order No. 1 (2008) in its entirety; and be it further

RESOLVED, That copies of this resolution be delivered to the Governor and the Speaker of the Illinois House of Representatives.

REPORT FROM RULES COMMITTEE

Senator Halvorson, Chairperson of the Committee on Rules, reported that the following Legislative Measures have been approved for consideration:

Senate Floor Amendment No. 2 to Senate Joint Resolution Constitutional Amendment 92
Senate Floor Amendment No. 4 to Senate Bill 2181
Senate Floor Amendment No. 3 to Senate Bill 2472
Senate Floor Amendment No. 2 to Senate Bill 2702
Senate Floor Amendment No. 3 to Senate Bill 2865

The foregoing floor amendments were placed on the Secretary's Desk.

Senator Halvorson, Chairperson of the Committee on Rules, reported that the following Senate Resolution has been approved for consideration:

Senate Resolution No. 656
The foregoing resolution was placed on the Secretary's Desk.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Schoenberg, **Senate Bill No. 786**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Risinger
Bivins	Forby	Lightford	Rutherford
Bomke	Frerichs	Link	Sandoval
Bond	Garrett	Luechtefeld	Schoenberg
Brady	Haine	Maloney	Silverstein
Burzynski	Halvorson	Martinez	Steans

Clayborne	Harmon	Meeks	Sullivan
Collins	Hendon	Millner	Syverson
Cronin	Holmes	Munoz	Trotter
Crotty	Hultgren	Murphy	Viverito
Cullerton	Hunter	Noland	Watson
Dahl	Jacobs	Pankau	Wilhelmi
DeLeo	Jones, J.	Peterson	Mr. President
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator Righter asked and obtained unanimous consent for the Journal to reflect his affirmative vote on **Senate Bill No. 786**.

SENATE BILL RECALLED

On motion of Senator Link, **Senate Bill No. 801** was recalled from the order of third reading to the order of second reading.

Senator Link offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 801

AMENDMENT NO. 1. Amend Senate Bill 801 by replacing everything after the enacting clause with the following:

"Section 5. The Cigarette Tax Act is amended by changing Sections 1, 3, 3-10, 4, 11, 20, and 21 and by adding Sections 3-15, 3-20, 4c, 4d, 4e, 4f, 4g, 6a, and 11a as follows:

(35 ILCS 130/1) (from Ch. 120, par. 453.1)

Sec. 1. For the purposes of this Act:

"Brand Style" means a variety of cigarettes distinguished by the tobacco used, tar and nicotine content, flavoring used, size of the cigarette, filtration on the cigarette or packaging. "Cigarette", means any ~~when used in this Act, shall be construed to mean: Any~~ roll for smoking made wholly or in part of tobacco irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, and the wrapper or cover of which is made of paper or any other substance or material except tobacco.

"Contraband cigarettes" means:

(a) cigarettes that do not bear a required tax stamp under this Act;

(b) cigarettes for which any required federal taxes have not been paid;

(c) cigarettes that bear a counterfeit tax stamp;

(d) cigarettes that are manufactured, fabricated, assembled, processed, packaged, or labeled by any person other than (i) the owner of the trademark rights in the cigarette brand or (ii) a person that is directly or indirectly authorized by such owner; or

(e) cigarettes imported into the United States, or otherwise distributed, in violation of the federal Imported Cigarette Compliance Act of 2000 (Title IV of Public Law 106-476).

"Person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, however formed, limited liability company, or a receiver, executor, administrator, trustee, guardian or other representative appointed by order of any court.

"Prior Continuous Compliance Taxpayer" means any person who is licensed under this Act and who, having been a licensee for a continuous period of 5 years, is determined by the Department not to have been either delinquent or deficient in the payment of tax liability during that period or otherwise in violation of this Act. Also, any taxpayer who has, as verified by the Department, continuously complied with the condition of his bond or other security under provisions of this Act for a period of 5 consecutive years shall be considered to be a "Prior continuous compliance taxpayer". In calculating the consecutive period of time described herein for qualification as a "prior continuous compliance taxpayer", a consecutive period of time of qualifying compliance immediately prior to the effective date of this amendatory Act of 1987 shall be credited to any licensee who became licensed on or before the effective

date of this amendatory Act of 1987.

"Department" means the Department of Revenue.

"Sale" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration, and includes and means all sales made by any person.

"Original Package" means the individual packet, box or other container whatsoever used to contain and to convey cigarettes to the consumer.

"Distributor" means any and each of the following:

(1) Any person engaged in the business of selling cigarettes in this State who brings or causes to be brought into this State from without this State any original packages of cigarettes, on which original packages there is no authorized evidence underneath a sealed transparent wrapper showing that the tax liability imposed by this Act has been paid or assumed by the out-of-State seller of such cigarettes, for sale or other disposition in the course of such business.

(2) Any person who makes, manufactures or fabricates cigarettes in this State for sale in this State, except a person who makes, manufactures or fabricates cigarettes as a part of a correctional industries program for sale to residents incarcerated in penal institutions or resident patients of a State-operated mental health facility.

(3) Any person who makes, manufactures or fabricates cigarettes outside this State, which cigarettes are placed in original packages contained in sealed transparent wrappers, for delivery or shipment into this State, and who elects to qualify and is accepted by the Department as a distributor under Section 4b of this Act.

"Place of business" shall mean and include any place where cigarettes are sold or where cigarettes are manufactured, stored or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train or vending machine.

"Business" means any trade, occupation, activity or enterprise engaged in for the purpose of selling cigarettes in this State.

"Retailer" means any person who engages in the making of transfers of the ownership of, or title to, cigarettes to a purchaser for use or consumption and not for resale in any form, for a valuable consideration. "Retailer" does not include a person:

(1) who transfers to residents incarcerated in penal institutions or resident patients of a State-operated mental health facility ownership of cigarettes made, manufactured, or fabricated as part of a correctional industries program; or

(2) who transfers cigarettes to a not-for-profit research institution that conducts tests concerning the health effects of tobacco products and who does not offer the cigarettes for resale.

"Retailer" shall be construed to include any person who engages in the making of transfers of the ownership of, or title to, cigarettes to a purchaser, for use or consumption by any other person to whom such purchaser may transfer the cigarettes without a valuable consideration, except a person who transfers to residents incarcerated in penal institutions or resident patients of a State-operated mental health facility ownership of cigarettes made, manufactured or fabricated as part of a correctional industries program.

"Stamp" or "stamps" mean the indicia required to be placed on a pack of cigarettes that evidence payment of the tax on cigarettes under Section 2 of this Act (35 ILCS 130/2), or the indicia used to indicate that the cigarettes are intended for a sale or distribution within this State that is exempt from State tax under any applicable provision of law.

"Within this State" means within the exterior limits of the State of Illinois and includes all territory within these limits owned by or ceded to the United States of America.

"Related party" means any person that is associated with any other person because he or she:

(a) is an officer or director of a business;

(b) is legally recognized as a partner in business; or

(c) is directly or indirectly controlled by another.

(Source: P.A. 95-462, eff. 8-27-07.)

(35 ILCS 130/3) (from Ch. 120, par. 453.3)

Sec. 3. Affixing tax stamp; remitting tax to the Department. Payment of the taxes imposed by Section 2 of this Act shall (except as hereinafter provided) be evidenced by revenue tax stamps affixed to each original package of cigarettes. Each distributor of cigarettes, before delivering or causing to be delivered any original package of cigarettes in this State to a purchaser, shall firmly affix a proper stamp or stamps to each such package, or (in case of manufacturers of cigarettes in original packages which are contained inside a sealed transparent wrapper) shall imprint the required language on the original package of cigarettes beneath such outside wrapper, as hereinafter provided. Any stamp required by this Act shall note whether the State tax under Section 2 of this Act (35 ILCS 130/2) was paid or whether the pack of

cigarettes was not subject to such tax.

No stamp or imprint may be affixed to, or made upon, any package of cigarettes unless that package complies with all requirements of the federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1331 and following, for the placement of labels, warnings, or any other information upon a package of cigarettes that is sold within the United States. Under the authority of Section 6, the Department shall revoke the license of any distributor that is determined to have violated this paragraph. A person may not affix a stamp on a package of cigarettes, cigarette papers, wrappers, or tubes if that individual package has been marked for export outside the United States with a label or notice in compliance with Section 290.185 of Title 27 of the Code of Federal Regulations. It is not a defense to a proceeding for violation of this paragraph that the label or notice has been removed, mutilated, obliterated, or altered in any manner.

Only distributors licensed under this Act or out-of-state manufacturers holding a permit under this Act may receive unstamped packs of cigarettes. Prior to shipment to another person, each licensed distributor or out-of-state manufacturer holding a permit shall apply a stamp to each pack of cigarettes imported, distributed, or sold whether or not such cigarettes are subject to State tax under Section 2 of this Act (35 ILCS 130/2) or any other provision of State law, provided that a distributor or out-of-state manufacturer may only apply a tax stamp to a pack of cigarettes purchased or obtained directly from a licensed distributor or an out-of-state manufacturing holding a permit. Only a licensed distributor or an out-of-state manufacturer holding a permit may ship or otherwise cause to be delivered unstamped packs of cigarettes in, into, or from this State, provided that a licensed distributor or an out-of-state manufacturer holding a permit may transport unstamped packs of cigarettes to a facility, wherever located, owned by such distributor or manufacturer. Any person that ships or otherwise causes to be delivered unstamped packs of cigarettes into, within, or from this State shall ensure that the invoice or equivalent documentation and the bill of lading or freight bill for the shipment identifies the true name and address of the cosignor or seller, the true name and address of the cosignee or purchaser, and the quantity by brand style of the cigarettes so transported, provided that this Section shall not be construed as to impose any requirement or liability upon any common or contract carrier.

The Department, or any person authorized by the Department, shall sell such stamps only to persons holding valid licenses as distributors under this Act. On and after July 1, 2003, payment for such stamps must be made by means of electronic funds transfer. The Department may refuse to sell stamps to any person who does not comply with the provisions of this Act. Beginning on the effective date of this amendatory Act of the 92nd General Assembly and through June 30, 2002, persons holding valid licenses as distributors may purchase cigarette tax stamps up to an amount equal to 115% of the distributor's average monthly cigarette tax stamp purchases over the 12 calendar months prior to the effective date of this amendatory Act of the 92nd General Assembly.

Prior to December 1, 1985, the Department shall allow a distributor 21 days in which to make final payment of the amount to be paid for such stamps, by allowing the distributor to make payment for the stamps at the time of purchasing them with a draft which shall be in such form as the Department prescribes, and which shall be payable within 21 days thereafter: Provided that such distributor has filed with the Department, and has received the Department's approval of, a bond, which is in addition to the bond required under Section 4 of this Act, payable to the Department in an amount equal to 80% of such distributor's average monthly tax liability to the Department under this Act during the preceding calendar year or $500,000, whichever is less. The Bond shall be joint and several and shall be in the form of a surety company bond in such form as the Department prescribes, or it may be in the form of a bank certificate of deposit or bank letter of credit. The bond shall be conditioned upon the distributor's payment of amount of any 21-day draft which the Department accepts from that distributor for the delivery of stamps to that distributor under this Act. The distributor's failure to pay any such draft, when due, shall also make such distributor automatically liable to the Department for a penalty equal to 25% of the amount of such draft.

On and after December 1, 1985 and until July 1, 2003, the Department shall allow a distributor 30 days in which to make final payment of the amount to be paid for such stamps, by allowing the distributor to make payment for the stamps at the time of purchasing them with a draft which shall be in such form as the Department prescribes, and which shall be payable within 30 days thereafter, and beginning on January 1, 2003 and thereafter, the draft shall be payable by means of electronic funds transfer: Provided that such distributor has filed with the Department, and has received the Department's approval of, a bond, which is in addition to the bond required under Section 4 of this Act, payable to the Department in an amount equal to 150% of such distributor's average monthly tax liability to the Department under this Act during the preceding calendar year or $750,000, whichever is less, except that as to bonds filed on or after January 1, 1987, such additional bond shall be in an amount equal to 100%

of such distributor's average monthly tax liability under this Act during the preceding calendar year or $750,000, whichever is less. The bond shall be joint and several and shall be in the form of a surety company bond in such form as the Department prescribes, or it may be in the form of a bank certificate of deposit or bank letter of credit. The bond shall be conditioned upon the distributor's payment of the amount of any 30-day draft which the Department accepts from that distributor for the delivery of stamps to that distributor under this Act. The distributor's failure to pay any such draft, when due, shall also make such distributor automatically liable to the Department for a penalty equal to 25% of the amount of such draft.

Every prior continuous compliance taxpayer shall be exempt from all requirements under this Section concerning the furnishing of such bond, as defined in this Section, as a condition precedent to his being authorized to engage in the business licensed under this Act. This exemption shall continue for each such taxpayer until such time as he may be determined by the Department to be delinquent in the filing of any returns, or is determined by the Department (either through the Department's issuance of a final assessment which has become final under the Act, or by the taxpayer's filing of a return which admits tax to be due that is not paid) to be delinquent or deficient in the paying of any tax under this Act, at which time that taxpayer shall become subject to the bond requirements of this Section and, as a condition of being allowed to continue to engage in the business licensed under this Act, shall be required to furnish bond to the Department in such form as provided in this Section. Such taxpayer shall furnish such bond for a period of 2 years, after which, if the taxpayer has not been delinquent in the filing of any returns, or delinquent or deficient in the paying of any tax under this Act, the Department may reinstate such person as a prior continuance compliance taxpayer. Any taxpayer who fails to pay an admitted or established liability under this Act may also be required to post bond or other acceptable security with the Department guaranteeing the payment of such admitted or established liability.

Any person aggrieved by any decision of the Department under this Section may, within the time allowed by law, protest and request a hearing, whereupon the Department shall give notice and shall hold a hearing in conformity with the provisions of this Act and then issue its final administrative decision in the matter to such person. In the absence of such a protest filed within the time allowed by law, the Department's decision shall become final without any further determination being made or notice given.

The Department shall discharge any surety and shall release and return any bond or security deposited, assigned, pledged, or otherwise provided to it by a taxpayer under this Section within 30 days after:

(1) Such taxpayer becomes a prior continuous compliance taxpayer; or

(2) Such taxpayer has ceased to collect receipts on which he is required to remit tax to the Department, has filed a final tax return, and has paid to the Department an amount sufficient to discharge his remaining tax liability as determined by the Department under this Act. The Department shall make a final determination of the taxpayer's outstanding tax liability as expeditiously as possible after his final tax return has been filed. If the Department cannot make such final determination within 45 days after receiving the final tax return, within such period it shall so notify the taxpayer, stating its reasons therefor.

The Department may authorize distributors to affix revenue tax stamps by imprinting tax meter stamps upon original packages of cigarettes. The Department shall adopt rules and regulations relating to the imprinting of such tax meter stamps as will result in payment of the proper taxes as herein imposed. No distributor may affix revenue tax stamps to original packages of cigarettes by imprinting tax meter stamps thereon unless such distributor has first obtained permission from the Department to employ this method of affixation. The Department shall regulate the use of tax meters and may, to assure the proper collection of the taxes imposed by this Act, revoke or suspend the privilege, theretofore granted by the Department to any distributor, to imprint tax meter stamps upon original packages of cigarettes.

Illinois cigarette manufacturers who place their cigarettes in original packages which are contained inside a sealed transparent wrapper, and similar out-of-State cigarette manufacturers who elect to qualify and are accepted by the Department as distributors under Section 4b of this Act, shall pay the taxes imposed by this Act by remitting the amount thereof to the Department by the 5th day of each month covering cigarettes shipped or otherwise delivered in Illinois to purchasers during the preceding calendar month. Such manufacturers of cigarettes in original packages which are contained inside a sealed transparent wrapper, before delivering such cigarettes or causing such cigarettes to be delivered in this State to purchasers, shall evidence their obligation to remit the taxes due with respect to such cigarettes by imprinting language to be prescribed by the Department on each original package of such cigarettes underneath the sealed transparent outside wrapper of such original package, in such place thereon and in such manner as the Department may designate. Such imprinted language shall acknowledge the manufacturer's payment of or liability for the tax imposed by this Act with respect to the distribution of

such cigarettes.

A distributor shall not affix, or cause to be affixed, any stamp or imprint to a package of cigarettes, as provided for in this Section, if the tobacco product manufacturer, as defined in Section 10 of the Tobacco Product Manufacturers' Escrow Act, that made or sold the cigarettes has failed to become a participating manufacturer, as defined in subdivision (a)(1) of Section 15 of the Tobacco Product Manufacturers' Escrow Act, or has failed to create a qualified escrow fund for any cigarettes manufactured by the tobacco product manufacturer and sold in this State or otherwise failed to bring itself into compliance with subdivision (a)(2) of Section 15 of the Tobacco Product Manufacturers' Escrow Act.

(Source: P.A. 92-322, eff. 1-1-02; 92-536, eff. 6-6-02; 92-737, eff. 7-25-02; 93-22, eff. 6-20-03.)

(35 ILCS 130/3-10)

Sec. 3-10. Cigarette enforcement.

(a) Prohibitions. It is unlawful for any person:

(1) to sell or distribute in this State; to acquire, hold, own, possess, or transport, for sale or distribution in this State; or to import, or cause to be imported into this State for sale or distribution in this State:

(A) any cigarettes the package of which:

(i) bears any statement, label, stamp, sticker, or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed, or used in the United States, including but not limited to labels stating "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording; or

(ii) does not comply with:

(aa) all requirements imposed by or pursuant to federal law regarding warnings and other information on packages of cigarettes manufactured, packaged, or imported for sale, distribution, or use in the United States, including but not limited to the precise warning labels specified in the federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1333; and

(bb) all federal trademark and copyright laws;

(B) any cigarettes imported into the United States in violation of 26 U.S.C. 5754 or any other federal law, or implementing federal regulations;

(C) any cigarettes that such person otherwise knows or has reason to know the manufacturer did not intend to be sold, distributed, or used in the United States; or

(D) any cigarettes for which there has not been submitted to the Secretary of the U.S. Department of Health and Human Services the list or lists of the ingredients added to tobacco in the manufacture of the cigarettes required by the federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1335a;

(2) to alter the package of any cigarettes, prior to sale or distribution to the ultimate consumer, so as to remove, conceal, or obscure:

(A) any statement, label, stamp, sticker, or notice described in subdivision (a)(1)(A)(i) of this Section;

(B) any health warning that is not specified in, or does not conform with the requirements of, the federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1333; ~~or~~

(3) to affix any stamp required pursuant to this Act to the package of any cigarettes described in subdivision (a)(1) of this Section or altered in violation of subdivision (a)(2); or ~~.~~

(4) to knowingly possess, or possess for sale, contraband cigarettes.

(b) Documentation. On the first business day of each month, each person licensed to affix the State tax stamp to cigarettes shall file with the Department, for all cigarettes imported into the United States to which the person has affixed the tax stamp in the preceding month:

(1) a copy of:

(A) the permit issued pursuant to the Internal Revenue Code, 26 U.S.C. 5713, to the person importing the cigarettes into the United States allowing the person to import the cigarettes; and

(B) the customs form containing, with respect to the cigarettes, the internal revenue tax information required by the U.S. Bureau of Alcohol, Tobacco and Firearms;

(2) a statement, signed by the person under penalty of perjury, which shall be treated as confidential by the Department and exempt from disclosure under the Freedom of Information Act, identifying the brand and brand styles of all such cigarettes, the quantity of each brand style of such cigarettes, the supplier of such cigarettes, and the person or persons, if any, to whom such cigarettes have been conveyed for resale; and a separate statement, signed by the individual under penalty of

perjury, which shall not be treated as confidential or exempt from disclosure, separately identifying the brands and brand styles of such cigarettes; and

(3) a statement, signed by an officer of the manufacturer or importer under penalty of perjury, certifying that the manufacturer or importer has complied with:

(A) the package health warning and ingredient reporting requirements of the federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1333 and 1335a, with respect to such cigarettes; and

(B) the provisions of Exhibit T of the Master Settlement Agreement entered in the case of People of the State of Illinois v. Philip Morris, et al. (Circuit Court of Cook County, No. 96-L13146), including a statement indicating whether the manufacturer is, or is not, a participating tobacco manufacturer within the meaning of Exhibit T.

(c) Administrative sanctions.

(1) Upon finding that a distributor has committed any of the acts prohibited by subsection (a), knowing or having reason to know that he or she has done so, or has failed to comply with any requirement of subsection (b), the Department may revoke or suspend the license or licenses of any distributor pursuant to the procedures set forth in Section 6 and impose on the distributor a civil penalty in an amount not to exceed the greater of 500% of the retail value of the cigarettes involved or $5,000.

(2) Cigarettes that are acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this State in violation of this Section shall be deemed contraband under this Act and are subject to seizure and forfeiture as provided in this Act, and all such cigarettes seized and forfeited shall be destroyed. Such cigarettes shall be deemed contraband whether the violation of this Section is knowing or otherwise.

(d) Unfair trade practices. A violation of subsection (a) or subsection (b) of this Section shall constitute an unlawful practice as provided in the Consumer Fraud and Deceptive Business Practices Act.

(e) Unfair cigarette sales. For purposes of the Trademark Registration and Protection Act and the Counterfeit Trademark Act, cigarettes imported or reimported into the United States for sale or distribution under any trade name, trade dress, or trademark that is the same as, or is confusingly similar to, any trade name, trade dress, or trademark used for cigarettes manufactured in the United States for sale or distribution in the United States shall be presumed to have been purchased outside of the ordinary channels of trade.

(f) General provisions.

(1) This Section shall be enforced by the Department; provided that, at the request of the Director of Revenue or the Director's duly authorized agent, the State police and all local police authorities shall enforce the provisions of this Section. The Attorney General has concurrent power with the State's Attorney of any county to enforce this Section.

(2) For the purpose of enforcing this Section, the Director of Revenue and any agency to which the Director has delegated enforcement responsibility pursuant to subdivision (f)(1) may request information from any State or local agency and may share information with and request information from any federal agency and any agency of any other state or any local agency of any other state.

(3) In addition to any other remedy provided by law, including enforcement as provided in subdivision (a)(1), any person may bring an action for appropriate injunctive or other equitable relief for a violation of this Section; actual damages, if any, sustained by reason of the violation; and, as determined by the court, interest on the damages from the date of the complaint, taxable costs, and reasonable attorney's fees. If the trier of fact finds that the violation is flagrant, it may increase recovery to an amount not in excess of 3 times the actual damages sustained by reason of the violation.

(g) Definitions. As used in this Section:

"Importer" means that term as defined in 26 U.S.C. 5702(1).

"Package" means that term as defined in 15 U.S.C. 1332(4).

(h) Applicability.

(1) This Section does not apply to:

(A) cigarettes allowed to be imported or brought into the United States for personal use; and

(B) cigarettes sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C. 1555(b) and any implementing regulations; except that this Section shall apply to any such cigarettes that are brought back into the

customs territory for resale within the customs territory.

(2) The penalties provided in this Section are in addition to any other penalties imposed under other provision of law.

(Source: P.A. 91-810, eff. 6-13-00.)

(35 ILCS 130/3-15 new)

Sec. 3-15. Criminal and civil penalties.

(a) Civil penalties.

(1) Distributors and manufacturers. Except as otherwise provided in this Section, a first violation of any provision of this Act by a manufacturer or distributor shall, in addition to any other penalty provided in this Act, be punishable by a fine of $5,000 for each separate violation, which shall be recovered, with costs of suit, in a civil action. Any subsequent violation of any provision of this Act by a manufacturer or distributor shall be punishable by a fine of $10,000 for each separate violation. In no case shall the fine imposed under this paragraph exceed 10 times the retail value of the cigarettes.

(2) Retailers. Except as otherwise provided in this Section, a first violation of any provision of this Act by a retailer shall, in addition to any other penalty provided in this Act, be punishable by a fine of $1,000 for each separate violation, which shall be recovered, with costs of suit, in a civil action. Any subsequent violation of any provision of this Act by a retailer shall be punishable by a fine of $2,000 for each separate violation. In no case shall the fine imposed under this paragraph exceed 10 times the retail value of the cigarettes.

(3) Failure to pay tax. Any person that fails to pay any tax imposed by this State at the time prescribed by law or regulations shall, in addition to any other penalty provided in this Act, be liable to a penalty of 3 times the tax due but unpaid, to help defray the costs of detection and investigation and any consequential damages. In no case shall the fine imposed under this paragraph exceed 10 times the retail value of the cigarettes.

(4) Civil forfeiture.

(A) All cigarettes which are held for sale or distribution within this State in violation of the requirements of this Act shall be forfeited to this State. All cigarettes forfeited to this State under this Act shall be destroyed. The Department may, prior to any destruction of cigarettes, permit the true holder of the trademark rights in the cigarette brand to inspect such contraband cigarettes, in order to assist the Department in any investigation regarding such cigarettes.

(B) Any person that, with intent to defraud the State:

(i) fails to keep or make any record, return, report, or inventory required by this Act;

(ii) keeps or makes any false or fraudulent record, return, report, or inventory required by this Act;

(iii) refuses to pay any tax imposed by this Act; or

(iv) attempts in any manner to evade or defeat the requirements of this Act shall forfeit to the State all fixtures, equipment, and other materials with a substantial connection to such conduct.

(C) A distributor or retailer shall not be required to forfeit fixtures, equipment, and all other materials and personal property on the premises if such distributor or retailer:

(i) acted in good faith;

(ii) was not involved in or aware of the unlawful activity prohibited by this Act; and

(iii) did all that reasonably could be expected under the circumstances to prevent violations of this Act.

(5) Notwithstanding any other provision of law, the Department may use proceeds from civil penalties imposed under this Section to offset necessary and reasonable expenses incurred in the detection and investigation of the failure of any person to pay any cigarette tax imposed by this State.

(b) Criminal penalties.

(1) Fraudulent offenses. Whoever intentionally fails to comply with any of the requirements of this Act or regulations prescribed hereunder shall, in addition to any other penalty provided in this Act, for each such offense, be guilty of a Class 3 felony.

(2) Knowing offenses. Whoever, knowingly violates any of the requirements of this Act or regulations prescribed hereunder shall, in addition to any other penalty provided in this Act, for each such offense, be guilty of a Class 4 felony.

(3) Penalties for contraband. Notwithstanding any other provision of law, the possession for sale of contraband cigarettes by a manufacturer, distributor, or retailer shall be punishable as follows:

(A) A person who commits a first knowing violation shall be guilty of a Class 4 felony.

(B) A person who commits a subsequent knowing violation shall be guilty of a Class 3 felony and shall have his or her license, permit, or sub-certificate revoked by the Department. In no case shall the fine imposed under this paragraph exceed ten times the retail value of the cigarettes.

(4) For purposes of this Section, the term contraband cigarettes includes cigarettes that have false manufacturing labels or packs of cigarettes bearing counterfeit tax stamps. Any contraband cigarette seized by this State shall be destroyed. The Department may, prior to any destruction of cigarettes, permit the true holder of the trademark rights in the cigarette brand to inspect such contraband cigarettes, in order to assist the Department in any investigation regarding such cigarettes.

(5) The penalties provided in paragraph (3) shall not apply where a licensed distributor is in possession of contraband cigarettes as a result of such cigarettes being returned to the distributor by a retailer if such distributor promptly notified appropriate law enforcement authorities.

(6) Criminal forfeiture.

(A) Notwithstanding any other provision of law, the possession for sale of contraband cigarettes by a manufacturer, distributor, or retailer shall, after notice and hearing, result in the forfeiture to this State of the product and related machinery and equipment used in the production of contraband cigarettes, or to falsely mark cigarettes to reflect the payment of excise taxes.

(B)The knowing sale or possession for sale of contraband cigarettes shall, after notice and hearing, result in the seizure of all related machinery and equipment.

(C) All cigarettes forfeited to this State under this Section shall be destroyed. The Department may, prior to any destruction of cigarettes, permit the true holder of the trademark rights in the cigarette brand to inspect such contraband cigarettes, in order to assist the Department in any investigation regarding such cigarettes.

(35 ILCS 130/3-20 new)

Sec. 3-20. Limitation on retail sales. A retailer shall not knowingly sell or distribute more than 10 cartons of cigarettes to any person in a single transaction or in any series of transactions within a twenty-four hour period; provided, however, that a retailer that is licensed as a distributor may make any sales permitted to be made by a distributor under this Act when acting in that capacity.

(35 ILCS 130/4) (from Ch. 120, par. 453.4)

Sec. 4. Distributor's license. No person may engage in business as a distributor of cigarettes in this State within the meaning of the first 2 definitions of distributor in Section 1 of this Act without first having obtained a license therefor from the Department. Application for license shall be made to the Department in form as furnished and prescribed by the Department. Each applicant for a license under this Section shall furnish to the Department on the form signed and verified by the applicant under penalty of perjury the following information:

(a) If the applicant is an individual, the name and business address of the applicant;

(b) If the applicant is a firm, partnership, or association, the name and business address of each of its members and any related party;

(c) If the applicant is an individual, the identity of any license holder in which the individual, directly or indirectly, owns more than 15 percent of the ownership interests;

(d) If the applicant is a corporation or limited liability company, the name and business address of each of its officers and the name and business address of any person that owns, directly or indirectly, in the aggregate, more than 15 percent of the ownership interests in the corporation or limited liability company and the name and business address of any license holder in which the applicant owns more than 15 percent of the ownership interests;

(e) The name under which such applicant regularly does business;

(f) The physical address of the applicant's principal place of business and any other place of business within this State;

(g) In the case of a distributor who manufacturers or imports cigarettes, the brand styles of cigarettes the applicant manufactures or imports;

(h) The kind or nature of the business to be conducted;

(i) Sufficient information to demonstrate that the applicant has complied or will comply with all of the requirements of this Act, including the identity of any related party;

(j) Whether the applicant has committed any act in the previous 5 years that would render the applicant ineligible for a license or whether the applicant has been convicted of a crime related to contraband cigarettes, punishable by imprisonment of one year or more; or

~~(a) The name and address of the applicant;~~

~~(b) The address of the location at which the applicant proposes to engage in business as a distributor of cigarettes in this State;~~

(k) ~~(c)~~ Such other additional information as the Department may lawfully require by its rules and regulations.

The annual license fee payable to the Department for each distributor's license shall be $250. The purpose of such annual license fee is to defray the cost, to the Department, of serializing cigarette tax

stamps. Each applicant for license shall pay such fee to the Department at the time of submitting his application for license to the Department.

Every applicant who is required to procure a distributor's license shall file with his application a joint and several bond. Such bond shall be executed to the Department of Revenue, with good and sufficient surety or sureties residing or licensed to do business within the State of Illinois, in the amount of $2,500, conditioned upon the true and faithful compliance by the licensee with all of the provisions of this Act. Such bond, or a reissue thereof, or a substitute therefor, shall be kept in effect during the entire period covered by the license. A separate application for license shall be made, a separate annual license fee paid, and a separate bond filed, for each place of business at which a person who is required to procure a distributor's license under this Section proposes to engage in business as a distributor in Illinois under this Act.

The following are ineligible to receive a distributor's license under this Act:

(1) a person who is not of good character and reputation in the community in which he resides;

(2) a person who has been convicted of a felony under any Federal or State law, if the Department, after investigation and a hearing, if requested by the applicant, determines that such person has not been sufficiently rehabilitated to warrant the public trust;

(3) a corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than 5% of the stock of such corporation, would not be eligible to receive a license under this Act for any reason.

(4) a person, or any person who owns more than 15 percent of the ownership interests in a person or a related party who:

(a) owes, at the time of application, $500 or more in delinquent cigarette taxes that have been determined by law to be due and unpaid, unless the license applicant has entered into an agreement approved by the Department to pay the amount due;

(b) had a license under this Act revoked within the past two years by the Department for willful misconduct relating to stolen or contraband cigarettes or has been convicted of a State or federal crime, punishable by imprisonment of one year or more, relating to stolen or contraband cigarettes;

(c) is a distributor who manufactures cigarettes who is neither (i) a participating manufacturer as defined in subsection II(jj) of the "Master Settlement Agreement" as defined in Sections 10 of the Tobacco Products Manufacturers' Escrow Act and the Tobacco Products Manufacturers' Escrow Enforcement Act of 2003 (30 ILCS 168/10 and 30 ILCS 167/10); nor (ii) in full compliance with Tobacco Products Manufacturers' Escrow Act and the Tobacco Products Manufacturers' Escrow Enforcement Act of 2003 (30 ILCS 168/ and 30 ILCS 167/);

(d) has been found to have willfully imported or caused to be imported into the United States for sale or distribution any cigarette in violation of 19 U.S.C. 1681a;

(e) has been found to have willfully imported or caused to be imported into the United States for sale or distribution or manufactured for sale or distribution in the United States any cigarette that does not fully comply with the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331, et. seq.); or

(f) has willfully made a material false statement in the application or has willfully failed to produce records required to be maintained by this Act.

The Department, upon receipt of an application, license fee and bond in proper form, from a person who is eligible to receive a distributor's license under this Act, shall issue to such applicant a revocable license in form as prescribed by the Department, which license shall permit the applicant to which it is issued to engage in business as a distributor at the place shown in his application. A distributor that operates at multiple locations within this State must possess a separate, individual license for each such location. To assist in the valid administrative needs of the Department, the Department shall assign each licensee a unique numerical identifier. All licenses issued by the Department under this Act shall be valid for not to exceed one year after issuance unless sooner revoked, canceled or suspended as provided in this Act. No license issued under this Act is transferable or assignable. Such license shall be conspicuously displayed in the place of business conducted by the licensee in Illinois under such license. No distributor licensee acquires any vested interest or compensable property right in a license issued under this Act.

A licensed distributor shall notify the Department of any change in the information contained on the application form, including any change in ownership and shall do so within 30 days after any such change.

Any person aggrieved by any decision of the Department under this Section may, within 20 days after notice of the decision, protest and request a hearing. Upon receiving a request for a hearing, the

Department shall give notice to the person requesting the hearing of the time and place fixed for the hearing and shall hold a hearing in conformity with the provisions of this Act and then issue its final administrative decision in the matter to that person. In the absence of a protest and request for a hearing within 20 days, the Department's decision shall become final without any further determination being made or notice given.

(Source: P.A. 91-901, eff. 1-1-01; 92-322, eff. 1-1-02.)

(35 ILCS 130/4c new)

Sec. 4c. Retailer's sub-certificate of registration. No person may engage in business as a retailer in this State without having obtained both a certificate of registration described in Section 2a of the Retailers' Occupation Tax Act (35 ILCS 120/2a) and a sub-certificate of registration described in this Section. To engage in the business of selling cigarettes at retail, retailers must obtain and maintain a sub-certificate of registration from the Department prior to the date of issuance or renewal of a retailer certificate of registration. Such retailer sub-certificates shall be issued without charge in such form as the Department may prescribe and shall not be transferable or assignable.

The expiration date of a retailer's sub-certificate of registration shall be that of the certificate of registration to which the sub-certificate relates, but shall not be valid after the expiration of 5 years from the date of its issuance or last renewal. The retailer's sub-certificate of registration shall not renew automatically. Sub-certificates of registration shall be renewed only upon timely application.

The Department shall issue sub-certificates of registration to retailers pursuant to this Act and under such terms and conditions as it may determine to further the requirements of this Act for each separate place of business for each retailer within this State. Retailers shall prominently display the appropriate sub-certificate of registration at each place of business in such a manner as to ensure that it is visible to all persons entering the place of business. All sub-certificates of registration shall bear the same registration number as that appearing upon the certificate of registration to which the sub-certificate relates.

Application for a retailer's sub-certificate of registration or a renewal thereof shall be made to the Department upon forms furnished and prescribed by the Department. Each such application shall be signed and verified under penalty of perjury and shall state:

(1) if the applicant is an individual, the name and business address of the applicant;

(2) if the applicant is a firm, partnership, or association, the name and business address of each of its members and any related party;

(3) if the applicant is an individual, the identity of any distributor, manufacturer, or retailer in which the individual, directly or indirectly, owns more than 15 percent of the ownership interests;

(4) if the applicant is a corporation or limited liability company, the name and business address of each of its officers and the name and business address of any person who owns, directly or indirectly, in the aggregate, more than 15 percent of the ownership interests in the corporation or limited liability company and the name and business address of any distributor, manufacturer, or retailer in which the applicant owns more than 15 percent of the ownership interests;

(5) the name under which such applicant regularly does business;

(6) the physical address of the applicant's principal place of business and any other place of business within this state;

(7) the kind or nature of the business to be conducted;

(8) sufficient information to demonstrate that the applicant has complied or will comply with all of the requirements of this Act, including the identity of any related party; and

(9) whether the applicant has committed any act in the previous 5 years that would render the applicant ineligible for a sub-certificate of registration or whether the applicant has been convicted of a crime related to contraband cigarettes, punishable by imprisonment of one year or more.

The Department shall not grant or renew a sub-certificate of registration or allow such a sub-certificate to be maintained if it determines the applicant or any person who owns more than 15 percent of the ownership interests in the applicant or a related party:

(1) owes, at the time of application, $500 or more in delinquent cigarette or retail taxes that have been determined by law to be due and unpaid, unless the applicant has entered into an agreement approved by the Department to pay the amount due;

(2) had a sub-certificate of registration under this Act revoked within the past two years by the Department for willful misconduct relating to stolen or contraband cigarettes or has been convicted of a State or Federal crime, punishable by imprisonment of one year or more, relating to stolen or contraband cigarettes;

(3) has been found to have willfully imported or caused to be imported into the United States for sale or distribution any cigarette in violation of 19 U.S.C. 1681a;

(4) has been found to have willfully imported or caused to be imported into the United States for sale or distribution or manufactured for sale or distribution in the United States any cigarette that does not fully comply with the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331, et. seq.); or

(5) has willfully made a material false statement in the application or has willfully failed to produce records required to be maintained by this Act.

A retailer shall notify the Department of any change in the information contained on the application form, including any change in ownership and shall do so within 30 days of any such change.

No retailer acquires any vested interest or compensable property right in a sub-certificate of registration issued under this Act.

(35 ILCS 130/4d new)

Sec. 4d. Transactions only with licensed distributors, out-of-state manufacturers holding a permit, and retailers holding a sub-certificate of registration. A distributor or manufacturer may sell or distribute cigarettes to a person located or doing business within this State only if such person is a licensed distributor or retailer holding a sub-certificate of registration. A retailer may only sell cigarettes obtained from a licensed distributor or an out-of-state manufacturer holding a permit.

(35 ILCS 130/4e new)

Sec. 4e. Proof of license, permit, or sub-certificate required. A distributor, manufacturer, or retailer shall, prior to the initial sale or exchange of cigarettes with any person that is required to be licensed, hold a permit, or hold a sub-certificate under this Act, require proof of a valid license, permit, or sub-certificate for the relevant business location issued under this Act.

(35 ILCS 130/4f new)

Sec. 4f. Maintenance of and publication of list of licenses, permits, and sub-certificates issued. Within 30 days after the effective date of this amendatory Act of the 95th General Assembly, the Department shall create and maintain a website setting forth the identity of all persons issued licenses, permits, or sub-certificates under this Act and the business locations of each licensee, permittee, or sub-certificate holder, itemized by type of license, permit, or certificate possessed, and shall update the website no less frequently than once per month. The Department shall, at a minimum, include on the website the legal name of the licensee, permittee, or sub-certificate holder, the numerical identifier issued to the licensee, permittee, or sub-certificate holder, and any name under which such licensee, permittee, or sub-certificate holder regularly does business.

(35 ILCS 130/4g new)

Sec. 4g. Maintenance of and publication of list of licensees, permittees, and sub-certificate holders whose licenses, permits, or sub-certificates have been suspended, cancelled, or revoked. Within 30 days after the effective date of this amendatory Act of the 95th General Assembly, the Department shall create and maintain a website setting forth the identity of all persons whose licenses, permits, or sub-certificates have been suspended, cancelled, or revoked under this Act within the past 3 years, itemized by type of license, permit, or sub-certificate, and shall update the website within 30 days after the date the Department suspends, cancels, or revokes any person's license, permit, or sub-certificate. The Department shall, at a minimum, include on the website the legal name, the business locations, the unique numerical identifier issued prior to the suspension, cancellation, or revocation of the, and any name under which such licensee, permittee, or sub-certificate holder regularly does business.

(35 ILCS 130/5) (from Ch. 120, par. 453.5)

Sec. 5. Printing tax stamps. The Department shall adopt the design or designs of the tax stamps or alternative tax indicia and shall procure the printing of such stamps or alternative tax indicia in such amounts and denominations as it deems necessary to provide for the affixation of the proper amount of tax stamps or alternative tax indicia to each original package of cigarettes.

Each roll or sheet of tax stamps shall have a separate and unique serial number that shall be clearly visible at the point of sale. The Department shall keep records of which licensed distributor or out-of-state manufacturer holding a permit purchases each roll or sheet of stamps identified by serial number.

Each licensed distributor or out-of-state manufacturer holding a permit authorized by the Department to make meter impressions shall be assigned a unique meter impression number, which number shall not be used by any other distributor or manufacturer and shall be visible and easily identifiable on the impression at the point of sale on each pack of cigarettes. The Department shall keep records detailing the meter impression number assigned to each licensed distributor or out-of-state manufacturer holding a permit.

(Source: P.A. 92-322, eff. 1-1-02.)

(35 ILCS 130/6a new)

Sec. 6a. Revocation, cancellation, or suspension of retailer's sub-certificate of registration. The

Department may, after notice and hearing as provided for by this Act, revoke, cancel or suspend a retailers' sub-certificate of registration for the violation of any provision of this Act, or for noncompliance with any provision herein contained, or for any noncompliance with any lawful rule or regulation promulgated by the Department, or because the sub-certificate holder is determined to be ineligible for a retailer's sub-certificate of registration for any one or more of the reasons provided for in Section 4c of this Act (35 ILCS 130/4c). However, no such sub-certificate shall be revoked, cancelled or suspended, except after a hearing by the Department with notice to the retailer, as aforesaid, and affording such retailer a reasonable opportunity to appear and defend, and any retailer aggrieved by any decision of the Department with respect thereto may have the determination of the Department judicially reviewed, as herein provided.

A retailer's sub-certificate of registration is revoked, cancelled, or suspended if the retail certificate of registration to which it relates is revoked, cancelled, or suspended. However, no such sub-certificate shall be revoked, cancelled, or suspended, except after a hearing by the Department with notice to the retailer, as aforesaid, and affording such retailer a reasonable opportunity to appear and defend, and any retailer aggrieved by any decision of the Department with respect thereto may have the determination of the Department judicially reviewed, as herein provided.

Any retailer aggrieved by any decision of the Department under this Section may, within 20 days after notice of the decision, protest and request a hearing. Upon receiving a request for a hearing, the Department shall give notice in writing to the retailer requesting the hearing that contains a statement of the charges preferred against the retailer and that states the time and place fixed for the hearing. The Department shall hold the hearing in conformity with the provisions of this Act and then issue its final administrative decision in the matter to the retailer. In the absence of a protest and request for a hearing within 20 days, the Department's decision shall become final without any further determination being made or notice given.

No sub-certificate so revoked, as aforesaid, shall be reissued to any such retailer within a period of 6 months after the date of the final determination of such revocation. No such sub-certificate shall be reissued at all so long as the person who would receive the sub-certificate is ineligible to receive a retailer's sub-certificate of registration under this Act for any one or more of the reasons provided for in Section 4c of this Act (35 ILCS 130/4c).

The Department, upon complaint filed in the circuit court, may by injunction restrain any person who fails, or refuses, to comply with any of the provisions of this Act from acting as a retailer of cigarettes in this State.

(35 ILCS 130/11) (from Ch. 120, par. 453.11)

Sec. 11. Every distributor of cigarettes, who is required to procure a license under this Act, shall keep within Illinois, at his licensed address, complete and accurate records of cigarettes held, purchased, manufactured, brought in or caused to be brought in from without the State, and sold, or otherwise disposed of, and shall preserve and keep within Illinois at his licensed address all invoices, bills of lading, sales records, copies of bills of sale, inventory at the close of each period for which a return is required of all cigarettes on hand and of all cigarette revenue stamps, both affixed and unaffixed, and other pertinent papers and documents relating to the manufacture, purchase, sale or disposition of cigarettes. All books and records and other papers and documents that are required by this Act to be kept shall be itemized by quantity and brand style, itemized for each of the distributor's facilities, kept in the English language, and shall, at all times during the usual business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees. The Department may adopt rules that establish requirements, including record forms and formats, for records required to be kept and maintained by taxpayers. For purposes of this Section, "records" means all data maintained by the taxpayer, including data on paper, microfilm, microfiche or any type of machine-sensible data compilation. Those books, records, papers and documents shall be preserved for a period of at least 3 years after the date of the documents, or the date of the entries appearing in the records, unless the Department, in writing, authorizes their destruction or disposal at an earlier date. At all times during the usual business hours of the day any duly authorized agent or employee of the Department may enter any place of business of the distributor, without a search warrant, and inspect the premises and the stock or packages of cigarettes and the vending devices therein contained, to determine whether any of the provisions of this Act are being violated. If such agent or employee is denied free access or is hindered or interfered with in making such examination as herein provided, the license of the distributor at such premises shall be subject to revocation by the Department.

(Source: P.A. 88-480.)

(35 ILCS 130/11a new)

Sec. 11a. Retailer records. Every cigarette retailer who is required to procure a sub-certificate of

registration under this Act shall keep within Illinois, at the corresponding place of business, copies of invoices or equivalent documentation, itemized by quantity and brand style, for each transaction involving the sale, purchase, transfer, consignment, or receipt of packs of cigarettes.

Records required under this Section shall be preserved on the premises described in the relevant sub-certificate of registration in such a manner as to ensure permanency and accessibility for inspection. All books and records and other papers and documents required by this Act to be kept shall be kept in the English language, and shall, at all times during the usual business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees. Such books and records shall be preserved for a period of at least 3 years after the date of the documents, or the date of the entries appearing in the records.

At all times during the usual business hours of the day any duly authorized agent or employee of the Department may enter any place of business of the retailer, without a search warrant, and inspect the premises and the stock or packages of cigarettes and the vending devices therein contained, to determine whether any of the provisions of this Act are being violated. If such agent or employee is denied free access or is hindered or interfered with in making such examination as herein provided, the sub-certificate of the retailer at such premises shall be subject to revocation by the Department.

The Department is authorized to disclose to the Attorney General any information received under this Section and requested by the Attorney General. The Department and the Attorney General shall share with each other the information received under this Section and may share the information with other federal, State, or local agencies for purposes of enforcement of this Act or the laws of the Federal government or of other States.

(35 ILCS 130/20) (from Ch. 120, par. 453.20)

Sec. 20. Whenever any peace officer of the State or any duly authorized officer or employee of the Department shall have reason to believe that any violation of this Act has occurred and that the person so violating the Act has in his, her or its possession any original package of cigarettes, not tax stamped or tax imprinted underneath the sealed transparent wrapper of such original package as required by this Act, or any vending device containing such original packages to which stamps have not been affixed, or on which an authorized substitute for stamps has not been imprinted underneath the sealed transparent wrapper of such original packages, as required by this Act, he may file or cause to be filed his complaint in writing, verified by affidavit, with any court within whose jurisdiction the premises to be searched are situated, stating the facts upon which such belief is founded, the premises to be searched, and the property to be seized, and procure a search warrant and execute the same. Upon the execution of such search warrant, the peace officer, or officer or employee of the Department, executing such search warrant shall make due return thereof to the court issuing the same, together with an inventory of the property taken thereunder. The court shall thereupon issue process against the owner of such property if he is known; otherwise, such process shall be issued against the person in whose possession the property so taken is found, if such person is known. In case of inability to serve such process upon the owner or the person in possession of the property at the time of its seizure, as hereinbefore provided, notice of the proceedings before the court shall be given as required by the statutes of the State governing cases of Attachment. Upon the return of the process duly served or upon the posting or publishing of notice made, as hereinabove provided, the court or jury, if a jury shall be demanded, shall proceed to determine whether or not such property so seized was held or possessed in violation of this Act, or whether, if a vending device has been so seized, it contained at the time of its seizure original packages not tax stamped or tax imprinted underneath the sealed transparent wrapper of such original packages as required by this Act. In case of a finding that the original packages seized were not tax stamped or tax imprinted underneath the sealed transparent wrapper of such original packages in accordance with the provisions of this Act, or that any vending device so seized contained at the time of its seizure original packages not tax stamped or tax imprinted underneath the sealed transparent wrapper of such original packages in accordance with the provisions of this Act, judgment shall be entered confiscating and forfeiting the property to the State and ordering its delivery to the Department, and in addition thereto, the court shall have power to tax and assess the costs of the proceedings.

When any original packages or any cigarette vending device shall have been declared forfeited to the State by any court, as hereinbefore provided, and when such confiscated and forfeited property shall have been delivered to the Department, as provided in this Act, the said Department shall destroy ~~sell~~ such property . The Department may, prior to any destruction of cigarettes, permit the true holder of the trademark rights in the cigarette brand to inspect such contraband cigarettes, in order to assist the Department in any investigation regarding such cigarettes. ~~for the best price obtainable and shall forthwith pay over the proceeds of such sale to the State Treasurer; provided, however, that if the value of such property to be sold at any one time shall be $500 or more, such property shall be sold only to the~~

~~highest and best bidder on such terms and conditions and on open competitive bidding after public advertisement, in such manner and for such terms as the Department, by rule, may prescribe.~~

~~Upon making such a sale of original packages of cigarettes which were not tax stamped or tax imprinted underneath the sealed transparent wrapper of such original packages as required by this Act, the Department shall affix a distinctive stamp to each of the original packages so sold indicating that the same are sold pursuant to the provisions of this Section.~~

(Source: Laws 1965, p. 3707.)

(35 ILCS 130/21) (from Ch. 120, par. 453.21)

Sec. 21. Destruction or use of forfeited property.

(a) When any original packages of cigarettes or any cigarette vending device shall have been declared forfeited to the State by the Department, as provided in Section 18a of this Act, and when all proceedings for the judicial review of the Department's decision have terminated, the Department shall, to the extent that its decision is sustained on review, destroy~~,~~ or maintain and use such property in an undercover capacity ~~, or sell such property for the best price obtainable and shall forthwith pay over the proceeds of such sale to the State Treasurer. If the value of such property to be sold at any one time is $500 or more, however, such property shall be sold only to the highest and best bidder on such terms and conditions and on open competitive bidding after public advertisement, in such manner and for such terms as the Department, by rule, may prescribe~~.

(b) The Department may, prior to any destruction of cigarettes, permit the true holder of the trademark rights in the cigarette brand to inspect such contraband cigarettes in order to assist the Department in any investigation regarding such cigarettes. ~~If no complaint for review, as provided in Section 8 of this Act, has been filed within the time required by the Administrative Review Law, and if no stay order has been entered thereunder, the Department shall proceed to sell the property for the best price obtainable and shall forthwith pay over the proceeds of such sale to the State Treasurer. If the value of such property to be sold at any one time is $500 or more, however, such property shall be sold only to the highest and best bidder on such terms and conditions and on open competitive bidding after public advertisement, in such manner and for such terms as the Department, by rule, may prescribe.~~

~~(c) Upon making a sale of unstamped original packages of cigarettes as provided in this Section, the Department shall affix a distinctive stamp to each of the original packages so sold indicating that the same are sold under this Section.~~

~~(d) Notwithstanding the foregoing, any cigarettes seized under this Act or under the Cigarette Use Tax Act may, at the discretion of the Director of Revenue, be distributed to any eleemosynary institution within the State of Illinois.~~

(Source: P.A. 94-776, eff. 5-19-06.)

(35 ILCS 130/9c rep.) (35 ILCS 130/28 rep.)

Section 10. The Cigarette Tax Act is amended by repealing Sections 9c and 28.

Section 15. The Prevention of Cigarette Sales to Minors Act is amended by changing Sections 5 and 10 and by adding Sections 2, 6, 7, 8, 9, 20, 25, and 30 as follows:

(720 ILCS 678/2 new)

Sec. 2. Definitions. For the purpose of this Act:

"Clear and conspicuous statement" means the statement is of sufficient type size to be clearly readable by the recipient of the communication.

"Consumer" means an individual who acquires or seeks to acquire cigarettes for personal use.

"Delivery sale" means any sale of cigarettes to a consumer if:

(a) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

(b) the cigarettes are delivered by use of a common carrier, private delivery service, or the mails, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes.

"Delivery service" means any person (other than a person that makes a delivery sale) who delivers to the consumer the cigarettes sold in a delivery sale.

"Department" means the Department of Revenue.

"Government-issued identification" means a State driver's license, State identification card, passport, a military identification or an official naturalization or immigration document, such as an alien registration recipient card (commonly known as a "green card") or an immigrant visa.

"Legal minimum age" means the minimum age at which an individual may legally purchase cigarettes within this State, as determined by either State or local government.

"Mails" or "mailing" mean the shipment of cigarettes through the United States Postal Service.

"Out-of-state sale" means a sale of cigarettes to a consumer located outside of this State where the consumer submits the order for such sale by means of a telephonic or other method of voice transmission, the mails or any other delivery service, facsimile transmission, or the Internet or other online service and where the cigarettes are delivered by use of the mails or other delivery service.

"Person" means any individual, corporation, partnership, limited liability company, association, or other organization that engages in any for profit or not-for-profit activities.

"Shipping package" means a container in which packs or cartons of cigarettes are shipped in connection with a delivery sale.

"Shipping documents" means bills of lading, air bills, or any other documents used to evidence the undertaking by a delivery service to deliver letters, packages, or other containers.

"Within this State" means within the exterior limits of the State of Illinois and includes all territory within these limits owned by or ceded to the United States of America.

(720 ILCS 678/5)

Sec. 5. Unlawful shipment or transportation of cigarettes.

(a) It is unlawful for any person engaged in the business of selling cigarettes to ship or cause to be shipped any cigarettes unless the person shipping the cigarettes:

(1) is licensed as a distributor under either the Cigarette Tax Act, or the Cigarette Use Tax Act; or delivers the cigarettes to a distributor licensed under either the Cigarette Tax Act or the Cigarette Use Tax Act; or

(2) ships them to an export warehouse proprietor pursuant to Chapter 52 of the Internal Revenue Code, or an operator of a customs bonded warehouse pursuant to Section 1311 or 1555 of Title 19 of the United States Code.

For purposes of this subsection (a), a person is a licensed distributor if the person's name appears on a list of licensed distributors published by the Illinois Department of Revenue. The term cigarette has the same meaning as defined in Section 1 of the Cigarette Tax Act and Section 1 of the Cigarette Use Tax Act. Nothing in this Act prohibits a person licensed as a distributor under the Cigarette Tax Act or the Cigarette Use Tax Act from shipping or causing to be shipped any cigarettes to a registered retailer under the Retailers' Occupation Tax Act and the Cigarette Tax Act provided the cigarette tax or cigarette use tax has been paid.

(b) A common or contract carrier may transport cigarettes to any individual person in this State only if the carrier reasonably believes such cigarettes have been received from a person described in paragraph (a)(1). Common or contract carriers may make deliveries of cigarettes to licensed distributors described in paragraph (a)(1) of this Section. Nothing in this subsection (b) shall be construed to prohibit a person other than a common or contract carrier from transporting not more than 1,000 cigarettes at any one time to any person in this State.

(c) A common or contract carrier may not complete the delivery of any cigarettes to persons other than those described in paragraph (a)(1) of this Section without first obtaining from the purchaser an official written identification from any state or federal agency that displays the person's date of birth or a birth certificate that includes a reliable confirmation that the purchaser is at least 18 years of age; that the cigarettes purchased are not intended for consumption by an individual who is younger than 18 years of age; and a written statement signed by the purchaser that certifies the purchaser's address and that the purchaser is at least 18 years of age. The statement shall also confirm: (1) that the purchaser understands that signing another person's name to the certification is illegal; (2) that the sale of cigarettes to individuals under 18 years of age is illegal; and (3) that the purchase of cigarettes by individuals under 18 years of age is illegal under the laws of Illinois.

(d) When a person engaged in the business of selling cigarettes ships or causes to be shipped any cigarettes to any person in this State, other than in the cigarette manufacturer's or tobacco products manufacturer's original container or wrapping, the container or wrapping must be plainly and visibly marked with the word "cigarettes".

(e) When a peace officer of this State or any duly authorized officer or employee of the Illinois Department of Public Health or Department of Revenue discovers any cigarettes which have been or which are being shipped or transported in violation of this Section, he or she shall seize and take possession of the cigarettes, and the cigarettes shall be subject to a forfeiture action pursuant to the procedures provided under the Cigarette Tax Act or Cigarette Use Tax Act.

(Source: P.A. 93-960, eff. 8-20-04.)

(720 ILCS 678/6 new)

Sec. 6. Prevention of delivery sales to minors.

(a) No person shall make a delivery sale of cigarettes to any individual who is under the legal minimum age.

(b) Each person accepting a purchase order for a delivery sale shall comply with the provisions of this Act and all other laws of this State generally applicable to sales of cigarettes that occur entirely within this State, including, but not limited to, those laws imposing: (i) excise taxes; (ii) sales taxes; (iii) license and revenue-stamping requirements; and (iv) escrow payment obligations.

(720 ILCS 678/7 new)

Sec. 7. Age verification and shipping requirements to prevent delivery sales to minors.

(a) No person, other than a delivery service, shall mail, ship, or otherwise cause to be delivered a shipping package in connection with a delivery sale unless the person:

(1) prior to the first delivery sale to the prospective consumer, obtains from the prospective consumer a written certification which includes a statement signed by the prospective consumer that certifies:

(A) the prospective consumer's current address; and

(B) that the prospective consumer is at least the legal minimum age;

(2) informs, in writing, such prospective consumer that:

(A) the signing of another person's name to the certification described in this Section is illegal;

(B) sales of cigarettes to individuals under the legal minimum age are illegal;

(C) the purchase of cigarettes by individuals under the legal minimum age is illegal; and

(D) the name and identity of the prospective consumer may be reported to the state of the consumer's current address under the Act of October 19, 1949 (15 U.S.C. § 375, et seq.), commonly known as the Jenkins Act;

(3) makes a good faith effort to verify the date of birth of the prospective customer provided pursuant to this Section by:

(A) comparing the date of birth against a commercially available database or

(B) obtaining a photocopy or other image of a valid, government-issued identification stating the date of birth or age of the prospective consumer;

(4) provides to the prospective consumer a notice that meets the requirements of subsection (b);

(5) receives payment for the delivery sale from the prospective consumer by a credit or debit card that has been issued in such consumer's name, or by a check or other written instrument in such consumer's name; and

(6) ensures that the shipping package is delivered to the same address as is shown on the government-issued identification or contained in the commercially available database.

(b) The notice required under this Section shall include:

(1) a statement that cigarette sales to consumers below the legal minimum age are illegal;

(2) a statement that sales of cigarettes are restricted to those consumers who provide verifiable proof of age in accordance with subsection (a);

(3) a statement that cigarette sales are subject to tax under Section 2 of the Cigarette Tax Act (35 ILCS 130/2) and an explanation of how such tax has been, or is to be, paid with respect to such delivery sale.

(c) A statement meets the requirement of this Section if:

(1) the statement is clear and conspicuous;

(2) the statement is contained in a printed box set apart from the other contents of the communication;

(3) the statement is printed in bold, capital letters;

(4) the statement is printed with a degree of color contrast between the background and the printed statement that is no less than the color contrast between the background and the largest text used in the communication; and

(5) for any printed material delivered by electronic means, the statement appears at both the top and the bottom of the electronic mail message or both the top and the bottom of the Internet website homepage.

(d) Each person, other than a delivery service, who mails, ships, or otherwise causes to be delivered a shipping package in connection with a delivery sale shall:

(1) include as part of the shipping documents a clear and conspicuous statement stating: "Cigarettes: Illinois Law Prohibits Shipping to Individuals Under 18 and Requires the Payment of All Applicable Taxes";

(2) use a method of mailing, shipping, or delivery that requires a signature before the shipping package is released to the consumer; and

(3) ensure that the shipping package is not delivered to any post office box.

(720 ILCS 678/8 new)

Sec. 8. Registration and reporting requirements to prevent delivery sales to minors.

(a) Each person who makes a delivery sale of cigarettes to a consumer located within this State shall file with the Department for each individual sale:

(1) a statement setting forth such person's name, trade name, and the address of such person's principal place of business and any other place of business; and

(2) not later than the tenth day of each calendar month, a memorandum or copy of the invoice for each and every such delivery sale made during the previous calendar month, which includes the following information:

(A) the name and address of the consumer to whom such delivery sale was made;

(B) the brand style or brand styles of the cigarettes that were sold in such delivery sale;

(C) the quantity of cigarettes that were sold in such delivery sale; and

(D) an indication of whether or not the cigarettes sold in the delivery sale bore a tax stamp evidencing payment of the tax under Section 2 of the Cigarette Tax Act (35 ILCS 130/2).

(b) Each person engaged in business within this State who makes an out-of-state sale shall, for each individual sale, submit to the appropriate tax official of the state in which the consumer is located the information required in subsection (a).

(c) Any person that satisfies the requirements of 15 U.S.C. Section 376 shall be deemed to satisfy the requirements of subsections (a) and (b).

(d) The Department is authorized to disclose to the Attorney General any information received under this title and requested by the Attorney General. The Department and the Attorney General shall share with each other the information received under this title and may share the information with other federal, State, or local agencies for purposes of enforcement of this title or the laws of the Federal government or of other States.

(e) This Section shall not be construed to impose liability upon any delivery service, or officers or employees thereof, when acting within the scope of business of the delivery service.

(720 ILCS 678/9 new)

Sec. 9. Statements for delivery sales.

(a) Each person who makes a delivery sale shall collect and remit to the Department all excise taxes imposed by this State with respect to such delivery sale and maintain evidence of such payment unless the person is located outside the State and includes a statement on the outside of the shipping package stating: "Illinois law requires the payment of state taxes on this shipment of cigarettes. You are legally responsible for all applicable unpaid state taxes on these cigarettes."

(b) A statement meets the requirements of subsection (a) if the statement is:

(1) clear and conspicuous;

(2) contained in a printed box set apart from the shipping label and other markings contained on the shipping package;

(3) printed in bold, capital letters;

(4) printed with a degree of color contrast between the background and the printed statement that is no less than the color contrast between the background and the largest text used on the shipping label; and

(5) located on the same side of the shipping package as the shipping label.

(720 ILCS 678/10)

Sec. 10. Violation.

(a) A person who violates subsection (a), (b), or (c) of Section 5 or Section, 6, 7, 8, or 9 is guilty of a Class A misdemeanor. A second or subsequent violation of subsection (a), (b), or (c) of Section 5 or Section, 6, 7, 8, or 9 is a Class 4 felony.

(b) The Department of Revenue shall impose a civil penalty not to exceed $5,000 on any person who violates subsection (a), (b), or (c) of Section 5 or Sections 6, 7, 8, or 9. The Department of Revenue shall impose a civil penalty not to exceed $5,000 on any person engaged in the business of selling cigarettes who ships or causes to be shipped any such cigarettes to any person in this State in violation of subsection (d) of Section 5.

(c) All cigarettes sold or attempted to be sold in a delivery sale that does not meet the requirements of this Act shall be forfeited to the State. All cigarettes forfeited to this State under this Act shall be destroyed. The Department may, prior to any destruction of cigarettes, permit the true holder of the trademark rights in the cigarette brand to inspect such contraband cigarettes, in order to assist the Department in any investigation regarding such cigarettes.

(d) ~~(c)~~ Any person aggrieved by any decision of the Department of Revenue may, within 60 days after notice of that decision, protest in writing and request a hearing. The Department of Revenue shall give notice to the person of the time and place for the hearing and shall hold a hearing before it issues a final administrative decision. Absent a written protest within 60 days, the Department's decision shall become

final without any further determination made or notice given.
(Source: P.A. 93-960, eff. 8-20-04.)

(720 ILCS 678/20 new)

Sec. 20. Tip line.

(a) Not later than 120 days after the effective date of this amendatory Act of the 95th General Assembly, the Department shall establish, publicize, and maintain a toll-free telephone number to receive information related to violations of this Act.

(b) The Attorney General may pay a reward of up to $5,000 to any person who furnishes information leading to the Department's collection of excise taxes imposed upon delivery sales which otherwise would not have been collected but for the information provided by the person.

(720 ILCS 678/25 new)

Sec. 25. Construction. The requirements imposed by this Act shall not apply where such application would be contrary to the Constitution and laws of the United States.

(720 ILCS 678/30 new)

Sec. 30. Severability. If any provision of this Act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining provisions of this Act, and to this end the provisions of this Act are expressly declared to be severable.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Link offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 801

AMENDMENT NO. _2__. Amend Senate Bill 801, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 3. The Retailers' Occupation Tax Act is amended by changing Section 2a as follows:

(35 ILCS 120/2a) (from Ch. 120, par. 441a)

Sec. 2a. It is unlawful for any person to engage in the business of selling tangible personal property at retail in this State without a certificate of registration from the Department. Application for a certificate of registration shall be made to the Department upon forms furnished by it. Each such application shall be signed and verified and shall state: (1) the name and social security number of the applicant; (2) the address of his principal place of business; (3) the address of the principal place of business from which he engages in the business of selling tangible personal property at retail in this State and the addresses of all other places of business, if any (enumerating such addresses, if any, in a separate list attached to and made a part of the application), from which he engages in the business of selling tangible personal property at retail in this State; (4) the name and address of the person or persons who will be responsible for filing returns and payment of taxes due under this Act; (5) in the case of a corporation, the name, title, and social security number of each corporate officer; (6) in the case of a limited liability company, the name, social security number, and FEIN number of each manager and member; and (7) such other information as the Department may reasonably require. The application shall contain an acceptance of responsibility signed by the person or persons who will be responsible for filing returns and payment of the taxes due under this Act. If the applicant will sell tangible personal property at retail through vending machines, his application to register shall indicate the number of vending machines to be so operated; and thereafter, he shall notify the Department by January 31 of the number of vending machines which such person was using in his business of selling tangible personal property at retail on the preceding December 31.

The Department may deny a certificate of registration to any applicant if the owner, any partner, any manager or member of a limited liability company, or a corporate officer of the applicant, is or has been the owner, a partner, a manager or member of a limited liability company, or a corporate officer, of another retailer that is in default for moneys due under this Act.

Every applicant for a certificate of registration hereunder shall, at the time of filing such application, furnish a bond from a surety company authorized to do business in the State of Illinois, or an irrevocable bank letter of credit or a bond signed by 2 personal sureties who have filed, with the Department, sworn statements disclosing net assets equal to at least 3 times the amount of the bond to be required of such applicant, or a bond secured by an assignment of a bank account or certificate of deposit, stocks or bonds, conditioned upon the applicant paying to the State of Illinois all moneys becoming due under this

Act and under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the applicant under this Act will permit the applicant to engage in business without registering separately under such other law, ordinance or resolution. The Department shall fix the amount of such security in each case, taking into consideration the amount of money expected to become due from the applicant under this Act and under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the applicant under this Act will permit the applicant to engage in business without registering separately under such other law, ordinance or resolution. The amount of security required by the Department shall be such as, in its opinion, will protect the State of Illinois against failure to pay the amount which may become due from the applicant under this Act and under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the applicant under this Act will permit the applicant to engage in business without registering separately under such other law, ordinance or resolution, but the amount of the security required by the Department shall not exceed three times the amount of the applicant's average monthly tax liability, or $50,000.00, whichever amount is lower.

No certificate of registration under this Act shall be issued by the Department until the applicant provides the Department with satisfactory security as herein provided for.

Upon receipt of the application for certificate of registration in proper form, and upon approval by the Department of the security furnished by the applicant, the Department shall issue to such applicant a certificate of registration which shall permit the person to whom it is issued to engage in the business of selling tangible personal property at retail in this State. The certificate of registration shall be conspicuously displayed at the place of business which the person so registered states in his application to be the principal place of business from which he engages in the business of selling tangible personal property at retail in this State.

No certificate of registration issued to a taxpayer who files returns required by this Act on a monthly basis shall be valid after the expiration of 5 years from the date of its issuance or last renewal. The expiration date of a sub-certificate of registration shall be that of the certificate of registration to which the sub-certificate relates. A certificate of registration shall automatically be renewed, subject to revocation as provided by this Act, for an additional 5 years from the date of its expiration unless otherwise notified by the Department as provided by this paragraph. Where a taxpayer to whom a certificate of registration is issued under this Act is in default to the State of Illinois for delinquent returns or for moneys due under this Act or any other State tax law or municipal or county ordinance administered or enforced by the Department, the Department shall, not less than 120 days before the expiration date of such certificate of registration, give notice to the taxpayer to whom the certificate was issued of the account period of the delinquent returns, the amount of tax, penalty and interest due and owing from the taxpayer, and that the certificate of registration shall not be automatically renewed upon its expiration date unless the taxpayer, on or before the date of expiration, has filed and paid the delinquent returns or paid the defaulted amount in full. A taxpayer to whom such a notice is issued shall be deemed an applicant for renewal. The Department shall promulgate regulations establishing procedures for taxpayers who file returns on a monthly basis but desire and qualify to change to a quarterly or yearly filing basis and will no longer be subject to renewal under this Section, and for taxpayers who file returns on a yearly or quarterly basis but who desire or are required to change to a monthly filing basis and will be subject to renewal under this Section.

The Department may in its discretion approve renewal by an applicant who is in default if, at the time of application for renewal, the applicant files all of the delinquent returns or pays to the Department such percentage of the defaulted amount as may be determined by the Department and agrees in writing to waive all limitations upon the Department for collection of the remaining defaulted amount to the Department over a period not to exceed 5 years from the date of renewal of the certificate; however, no renewal application submitted by an applicant who is in default shall be approved if the immediately preceding renewal by the applicant was conditioned upon the installment payment agreement described in this Section. The payment agreement herein provided for shall be in addition to and not in lieu of the security required by this Section of a taxpayer who is no longer considered a prior continuous compliance taxpayer. The execution of the payment agreement as provided in this Act shall not toll the accrual of interest at the statutory rate.

<u>The Department may suspend a certificate of registration if the person to whom the certificate of registration has been issued knowingly sells contraband or counterfeit cigarettes.</u>

A certificate of registration issued under this Act more than 5 years before the effective date of this amendatory Act of 1989 shall expire and be subject to the renewal provisions of this Section on the next anniversary of the date of issuance of such certificate which occurs more than 6 months after the

effective date of this amendatory Act of 1989. A certificate of registration issued less than 5 years before the effective date of this amendatory Act of 1989 shall expire and be subject to the renewal provisions of this Section on the 5th anniversary of the issuance of the certificate.

If the person so registered states that he operates other places of business from which he engages in the business of selling tangible personal property at retail in this State, the Department shall furnish him with a sub-certificate of registration for each such place of business, and the applicant shall display the appropriate sub-certificate of registration at each such place of business. All sub-certificates of registration shall bear the same registration number as that appearing upon the certificate of registration to which such sub-certificates relate.

If the applicant will sell tangible personal property at retail through vending machines, the Department shall furnish him with a sub-certificate of registration for each such vending machine, and the applicant shall display the appropriate sub-certificate of registration on each such vending machine by attaching the sub-certificate of registration to a conspicuous part of such vending machine.

Where the same person engages in 2 or more businesses of selling tangible personal property at retail in this State, which businesses are substantially different in character or engaged in under different trade names or engaged in under other substantially dissimilar circumstances (so that it is more practicable, from an accounting, auditing or bookkeeping standpoint, for such businesses to be separately registered), the Department may require or permit such person (subject to the same requirements concerning the furnishing of security as those that are provided for hereinbefore in this Section as to each application for a certificate of registration) to apply for and obtain a separate certificate of registration for each such business or for any of such businesses, under a single certificate of registration supplemented by related sub-certificates of registration.

Any person who is registered under the "Retailers' Occupation Tax Act" as of March 8, 1963, and who, during the 3-year period immediately prior to March 8, 1963, or during a continuous 3-year period part of which passed immediately before and the remainder of which passes immediately after March 8, 1963, has been so registered continuously and who is determined by the Department not to have been either delinquent or deficient in the payment of tax liability during that period under this Act or under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the registrant under this Act will permit the registrant to engage in business without registering separately under such other law, ordinance or resolution, shall be considered to be a Prior Continuous Compliance taxpayer. Also any taxpayer who has, as verified by the Department, faithfully and continuously complied with the condition of his bond or other security under the provisions of this Act for a period of 3 consecutive years shall be considered to be a Prior Continuous Compliance taxpayer.

Every Prior Continuous Compliance taxpayer shall be exempt from all requirements under this Act concerning the furnishing of security as a condition precedent to his being authorized to engage in the business of selling tangible personal property at retail in this State. This exemption shall continue for each such taxpayer until such time as he may be determined by the Department to be delinquent in the filing of any returns, or is determined by the Department (either through the Department's issuance of a final assessment which has become final under the Act, or by the taxpayer's filing of a return which admits tax that is not paid to be due) to be delinquent or deficient in the paying of any tax under this Act or under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the registrant under this Act will permit the registrant to engage in business without registering separately under such other law, ordinance or resolution, at which time that taxpayer shall become subject to all the financial responsibility requirements of this Act and, as a condition of being allowed to continue to engage in the business of selling tangible personal property at retail, shall be required to post bond or other acceptable security with the Department covering liability which such taxpayer may thereafter incur. Any taxpayer who fails to pay an admitted or established liability under this Act may also be required to post bond or other acceptable security with this Department guaranteeing the payment of such admitted or established liability.

No certificate of registration shall be issued to any person who is in default to the State of Illinois for moneys due under this Act or under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the applicant under this Act will permit the applicant to engage in business without registering separately under such other law, ordinance or resolution.

Any person aggrieved by any decision of the Department under this Section may, within 20 days after notice of such decision, protest and request a hearing, whereupon the Department shall give notice to such person of the time and place fixed for such hearing and shall hold a hearing in conformity with the provisions of this Act and then issue its final administrative decision in the matter to such person. In the

absence of such a protest within 20 days, the Department's decision shall become final without any further determination being made or notice given.

With respect to security other than bonds (upon which the Department may sue in the event of a forfeiture), if the taxpayer fails to pay, when due, any amount whose payment such security guarantees, the Department shall, after such liability is admitted by the taxpayer or established by the Department through the issuance of a final assessment that has become final under the law, convert the security which that taxpayer has furnished into money for the State, after first giving the taxpayer at least 10 days' written notice, by registered or certified mail, to pay the liability or forfeit such security to the Department. If the security consists of stocks or bonds or other securities which are listed on a public exchange, the Department shall sell such securities through such public exchange. If the security consists of an irrevocable bank letter of credit, the Department shall convert the security in the manner provided for in the Uniform Commercial Code. If the security consists of a bank certificate of deposit, the Department shall convert the security into money by demanding and collecting the amount of such bank certificate of deposit from the bank which issued such certificate. If the security consists of a type of stocks or other securities which are not listed on a public exchange, the Department shall sell such security to the highest and best bidder after giving at least 10 days' notice of the date, time and place of the intended sale by publication in the "State Official Newspaper". If the Department realizes more than the amount of such liability from the security, plus the expenses incurred by the Department in converting the security into money, the Department shall pay such excess to the taxpayer who furnished such security, and the balance shall be paid into the State Treasury.

The Department shall discharge any surety and shall release and return any security deposited, assigned, pledged or otherwise provided to it by a taxpayer under this Section within 30 days after:

(1) such taxpayer becomes a Prior Continuous Compliance taxpayer; or

(2) such taxpayer has ceased to collect receipts on which he is required to remit tax

to the Department, has filed a final tax return, and has paid to the Department an amount sufficient to discharge his remaining tax liability, as determined by the Department, under this Act and under every other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration issued under this Act permits the registrant to engage in business without registering separately under such other law, ordinance or resolution. The Department shall make a final determination of the taxpayer's outstanding tax liability as expeditiously as possible after his final tax return has been filed; if the Department cannot make such final determination within 45 days after receiving the final tax return, within such period it shall so notify the taxpayer, stating its reasons therefor.

(Source: P.A. 90-491, eff. 1-1-98; 91-357, eff. 7-29-99.)

Section 5. The Cigarette Tax Act is amended by changing Sections 1, 3, 3-10, 4, 20, and 21 and by adding Sections 3-15, 4d, and 4g as follows:

(35 ILCS 130/1) (from Ch. 120, par. 453.1)

Sec. 1. For the purposes of this Act:

"Brand Style" means a variety of cigarettes distinguished by the tobacco used, tar and nicotine content, flavoring used, size of the cigarette, filtration on the cigarette or packaging. "Cigarette", means any ~~when used in this Act, shall be construed to mean: Any~~ roll for smoking made wholly or in part of tobacco irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, and the wrapper or cover of which is made of paper or any other substance or material except tobacco.

"Contraband cigarettes" means:

(a) cigarettes that do not bear a required tax stamp under this Act;

(b) cigarettes for which any required federal taxes have not been paid;

(c) cigarettes that bear a counterfeit tax stamp;

(d) cigarettes that are manufactured, fabricated, assembled, processed, packaged, or labeled by any person other than (i) the owner of the trademark rights in the cigarette brand or (ii) a person that is directly or indirectly authorized by such owner; or

(e) cigarettes imported into the United States, or otherwise distributed, in violation of the federal Imported Cigarette Compliance Act of 2000 (Title IV of Public Law 106-476).

"Person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, however formed, limited liability company, or a receiver, executor, administrator, trustee, guardian or other representative appointed by order of any court.

"Prior Continuous Compliance Taxpayer" means any person who is licensed under this Act and who, having been a licensee for a continuous period of 5 years, is determined by the Department not to have

been either delinquent or deficient in the payment of tax liability during that period or otherwise in violation of this Act. Also, any taxpayer who has, as verified by the Department, continuously complied with the condition of his bond or other security under provisions of this Act for a period of 5 consecutive years shall be considered to be a "Prior continuous compliance taxpayer". In calculating the consecutive period of time described herein for qualification as a "prior continuous compliance taxpayer", a consecutive period of time of qualifying compliance immediately prior to the effective date of this amendatory Act of 1987 shall be credited to any licensee who became licensed on or before the effective date of this amendatory Act of 1987.

"Department" means the Department of Revenue.

"Sale" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration, and includes and means all sales made by any person.

"Original Package" means the individual packet, box or other container whatsoever used to contain and to convey cigarettes to the consumer.

"Distributor" means any and each of the following:

(1) Any person engaged in the business of selling cigarettes in this State who brings or causes to be brought into this State from without this State any original packages of cigarettes, on which original packages there is no authorized evidence underneath a sealed transparent wrapper showing that the tax liability imposed by this Act has been paid or assumed by the out-of-State seller of such cigarettes, for sale or other disposition in the course of such business.

(2) Any person who makes, manufactures or fabricates cigarettes in this State for sale in this State, except a person who makes, manufactures or fabricates cigarettes as a part of a correctional industries program for sale to residents incarcerated in penal institutions or resident patients of a State-operated mental health facility.

(3) Any person who makes, manufactures or fabricates cigarettes outside this State, which cigarettes are placed in original packages contained in sealed transparent wrappers, for delivery or shipment into this State, and who elects to qualify and is accepted by the Department as a distributor under Section 4b of this Act.

"Place of business" shall mean and include any place where cigarettes are sold or where cigarettes are manufactured, stored or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train or vending machine.

"Business" means any trade, occupation, activity or enterprise engaged in for the purpose of selling cigarettes in this State.

"Retailer" means any person who engages in the making of transfers of the ownership of, or title to, cigarettes to a purchaser for use or consumption and not for resale in any form, for a valuable consideration. "Retailer" does not include a person:

(1) who transfers to residents incarcerated in penal institutions or resident patients of a State-operated mental health facility ownership of cigarettes made, manufactured, or fabricated as part of a correctional industries program; or

(2) who transfers cigarettes to a not-for-profit research institution that conducts tests concerning the health effects of tobacco products and who does not offer the cigarettes for resale.

"Retailer" shall be construed to include any person who engages in the making of transfers of the ownership of, or title to, cigarettes to a purchaser, for use or consumption by any other person to whom such purchaser may transfer the cigarettes without a valuable consideration, except a person who transfers to residents incarcerated in penal institutions or resident patients of a State-operated mental health facility ownership of cigarettes made, manufactured or fabricated as part of a correctional industries program.

"Stamp" or "stamps" mean the indicia required to be placed on a pack of cigarettes that evidence payment of the tax on cigarettes under Section 2 of this Act (35 ILCS 130/2), or the indicia used to indicate that the cigarettes are intended for a sale or distribution within this State that is exempt from State tax under any applicable provision of law.

"Within this State" means within the exterior limits of the State of Illinois and includes all territory within these limits owned by or ceded to the United States of America.

"Related party" means any person that is associated with any other person because he or she:

(a) is an officer or director of a business;

(b) is legally recognized as a partner in business; or

(c) is directly or indirectly controlled by another.

(Source: P.A. 95-462, eff. 8-27-07.)

(35 ILCS 130/3) (from Ch. 120, par. 453.3)

Sec. 3. Affixing tax stamp; remitting tax to the Department. Payment of the taxes imposed by Section

2 of this Act shall (except as hereinafter provided) be evidenced by revenue tax stamps affixed to each original package of cigarettes. Each distributor of cigarettes, before delivering or causing to be delivered any original package of cigarettes in this State to a purchaser, shall firmly affix a proper stamp or stamps to each such package, or (in case of manufacturers of cigarettes in original packages which are contained inside a sealed transparent wrapper) shall imprint the required language on the original package of cigarettes beneath such outside wrapper, as hereinafter provided. Any stamp required by this Act shall note whether the State tax under Section 2 of this Act (35 ILCS 130/2) was paid or whether the pack of cigarettes was not subject to such tax.

No stamp or imprint may be affixed to, or made upon, any package of cigarettes unless that package complies with all requirements of the federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1331 and following, for the placement of labels, warnings, or any other information upon a package of cigarettes that is sold within the United States. Under the authority of Section 6, the Department shall revoke the license of any distributor that is determined to have violated this paragraph. A person may not affix a stamp on a package of cigarettes, cigarette papers, wrappers, or tubes if that individual package has been marked for export outside the United States with a label or notice in compliance with Section 290.185 of Title 27 of the Code of Federal Regulations. It is not a defense to a proceeding for violation of this paragraph that the label or notice has been removed, mutilated, obliterated, or altered in any manner.

Only distributors licensed under this Act or out-of-state manufacturers holding a permit under this Act may receive unstamped packs of cigarettes. Prior to shipment to another person, each licensed distributor or out-of-state manufacturer holding a permit shall apply a stamp to each pack of cigarettes imported, distributed, or sold whether or not such cigarettes are subject to State tax under Section 2 of this Act (35 ILCS 130/2) or any other provision of State law, provided that a distributor or out-of-state manufacturer may only apply a tax stamp to a pack of cigarettes purchased or obtained directly from a licensed distributor or an out-of-state manufacturing holding a permit. Only a licensed distributor or an out-of-state manufacturer holding a permit may ship or otherwise cause to be delivered unstamped packs of cigarettes in, into, or from this State, provided that a licensed distributor or an out-of-state manufacturer holding a permit may transport unstamped packs of cigarettes to a facility, wherever located, owned by such distributor or manufacturer. Any person that ships or otherwise causes to be delivered unstamped packs of cigarettes into, within, or from this State shall ensure that the invoice or equivalent documentation and the bill of lading or freight bill for the shipment identifies the true name and address of the cosignor or seller, the true name and address of the cosignee or purchaser, and the quantity by brand style of the cigarettes so transported, provided that this Section shall not be construed as to impose any requirement or liability upon any common or contract carrier.

The Department, or any person authorized by the Department, shall sell such stamps only to persons holding valid licenses as distributors under this Act. On and after July 1, 2003, payment for such stamps must be made by means of electronic funds transfer. The Department may refuse to sell stamps to any person who does not comply with the provisions of this Act. Beginning on the effective date of this amendatory Act of the 92nd General Assembly and through June 30, 2002, persons holding valid licenses as distributors may purchase cigarette tax stamps up to an amount equal to 115% of the distributor's average monthly cigarette tax stamp purchases over the 12 calendar months prior to the effective date of this amendatory Act of the 92nd General Assembly.

Prior to December 1, 1985, the Department shall allow a distributor 21 days in which to make final payment of the amount to be paid for such stamps, by allowing the distributor to make payment for the stamps at the time of purchasing them with a draft which shall be in such form as the Department prescribes, and which shall be payable within 21 days thereafter: Provided that such distributor has filed with the Department, and has received the Department's approval of, a bond, which is in addition to the bond required under Section 4 of this Act, payable to the Department in an amount equal to 80% of such distributor's average monthly tax liability to the Department under this Act during the preceding calendar year or $500,000, whichever is less. The Bond shall be joint and several and shall be in the form of a surety company bond in such form as the Department prescribes, or it may be in the form of a bank certificate of deposit or bank letter of credit. The bond shall be conditioned upon the distributor's payment of amount of any 21-day draft which the Department accepts from that distributor for the delivery of stamps to that distributor under this Act. The distributor's failure to pay any such draft, when due, shall also make such distributor automatically liable to the Department for a penalty equal to 25% of the amount of such draft.

On and after December 1, 1985 and until July 1, 2003, the Department shall allow a distributor 30 days in which to make final payment of the amount to be paid for such stamps, by allowing the distributor to make payment for the stamps at the time of purchasing them with a draft which shall be in

such form as the Department prescribes, and which shall be payable within 30 days thereafter, and beginning on January 1, 2003 and thereafter, the draft shall be payable by means of electronic funds transfer: Provided that such distributor has filed with the Department, and has received the Department's approval of, a bond, which is in addition to the bond required under Section 4 of this Act, payable to the Department in an amount equal to 150% of such distributor's average monthly tax liability to the Department under this Act during the preceding calendar year or $750,000, whichever is less, except that as to bonds filed on or after January 1, 1987, such additional bond shall be in an amount equal to 100% of such distributor's average monthly tax liability under this Act during the preceding calendar year or $750,000, whichever is less. The bond shall be joint and several and shall be in the form of a surety company bond in such form as the Department prescribes, or it may be in the form of a bank certificate of deposit or bank letter of credit. The bond shall be conditioned upon the distributor's payment of the amount of any 30-day draft which the Department accepts from that distributor for the delivery of stamps to that distributor under this Act. The distributor's failure to pay any such draft, when due, shall also make such distributor automatically liable to the Department for a penalty equal to 25% of the amount of such draft.

Every prior continuous compliance taxpayer shall be exempt from all requirements under this Section concerning the furnishing of such bond, as defined in this Section, as a condition precedent to his being authorized to engage in the business licensed under this Act. This exemption shall continue for each such taxpayer until such time as he may be determined by the Department to be delinquent in the filing of any returns, or is determined by the Department (either through the Department's issuance of a final assessment which has become final under the Act, or by the taxpayer's filing of a return which admits tax to be due that is not paid) to be delinquent or deficient in the paying of any tax under this Act, at which time that taxpayer shall become subject to the bond requirements of this Section and, as a condition of being allowed to continue to engage in the business licensed under this Act, shall be required to furnish bond to the Department in such form as provided in this Section. Such taxpayer shall furnish such bond for a period of 2 years, after which, if the taxpayer has not been delinquent in the filing of any returns, or delinquent or deficient in the paying of any tax under this Act, the Department may reinstate such person as a prior continuance compliance taxpayer. Any taxpayer who fails to pay an admitted or established liability under this Act may also be required to post bond or other acceptable security with the Department guaranteeing the payment of such admitted or established liability.

Any person aggrieved by any decision of the Department under this Section may, within the time allowed by law, protest and request a hearing, whereupon the Department shall give notice and shall hold a hearing in conformity with the provisions of this Act and then issue its final administrative decision in the matter to such person. In the absence of such a protest filed within the time allowed by law, the Department's decision shall become final without any further determination being made or notice given.

The Department shall discharge any surety and shall release and return any bond or security deposited, assigned, pledged, or otherwise provided to it by a taxpayer under this Section within 30 days after:

(1) Such taxpayer becomes a prior continuous compliance taxpayer; or

(2) Such taxpayer has ceased to collect receipts on which he is required to remit tax to the Department, has filed a final tax return, and has paid to the Department an amount sufficient to discharge his remaining tax liability as determined by the Department under this Act. The Department shall make a final determination of the taxpayer's outstanding tax liability as expeditiously as possible after his final tax return has been filed. If the Department cannot make such final determination within 45 days after receiving the final tax return, within such period it shall so notify the taxpayer, stating its reasons therefor.

The Department may authorize distributors to affix revenue tax stamps by imprinting tax meter stamps upon original packages of cigarettes. The Department shall adopt rules and regulations relating to the imprinting of such tax meter stamps as will result in payment of the proper taxes as herein imposed. No distributor may affix revenue tax stamps to original packages of cigarettes by imprinting tax meter stamps thereon unless such distributor has first obtained permission from the Department to employ this method of affixation. The Department shall regulate the use of tax meters and may, to assure the proper collection of the taxes imposed by this Act, revoke or suspend the privilege, theretofore granted by the Department to any distributor, to imprint tax meter stamps upon original packages of cigarettes.

Illinois cigarette manufacturers who place their cigarettes in original packages which are contained inside a sealed transparent wrapper, and similar out-of-State cigarette manufacturers who elect to qualify and are accepted by the Department as distributors under Section 4b of this Act, shall pay the taxes imposed by this Act by remitting the amount thereof to the Department by the 5th day of each month covering cigarettes shipped or otherwise delivered in Illinois to purchasers during the preceding calendar

month. Such manufacturers of cigarettes in original packages which are contained inside a sealed transparent wrapper, before delivering such cigarettes or causing such cigarettes to be delivered in this State to purchasers, shall evidence their obligation to remit the taxes due with respect to such cigarettes by imprinting language to be prescribed by the Department on each original package of such cigarettes underneath the sealed transparent outside wrapper of such original package, in such place thereon and in such manner as the Department may designate. Such imprinted language shall acknowledge the manufacturer's payment of or liability for the tax imposed by this Act with respect to the distribution of such cigarettes.

A distributor shall not affix, or cause to be affixed, any stamp or imprint to a package of cigarettes, as provided for in this Section, if the tobacco product manufacturer, as defined in Section 10 of the Tobacco Product Manufacturers' Escrow Act, that made or sold the cigarettes has failed to become a participating manufacturer, as defined in subdivision (a)(1) of Section 15 of the Tobacco Product Manufacturers' Escrow Act, or has failed to create a qualified escrow fund for any cigarettes manufactured by the tobacco product manufacturer and sold in this State or otherwise failed to bring itself into compliance with subdivision (a)(2) of Section 15 of the Tobacco Product Manufacturers' Escrow Act.

(Source: P.A. 92-322, eff. 1-1-02; 92-536, eff. 6-6-02; 92-737, eff. 7-25-02; 93-22, eff. 6-20-03.)

(35 ILCS 130/3-10)

Sec. 3-10. Cigarette enforcement.

(a) Prohibitions. It is unlawful for any person:

(1) to sell or distribute in this State; to acquire, hold, own, possess, or transport, for sale or distribution in this State; or to import, or cause to be imported into this State for sale or distribution in this State:

(A) any cigarettes the package of which:

(i) bears any statement, label, stamp, sticker, or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed, or used in the United States, including but not limited to labels stating "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording; or

(ii) does not comply with:

(aa) all requirements imposed by or pursuant to federal law regarding warnings and other information on packages of cigarettes manufactured, packaged, or imported for sale, distribution, or use in the United States, including but not limited to the precise warning labels specified in the federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1333; and

(bb) all federal trademark and copyright laws;

(B) any cigarettes imported into the United States in violation of 26 U.S.C. 5754 or any other federal law, or implementing federal regulations;

(C) any cigarettes that such person otherwise knows or has reason to know the manufacturer did not intend to be sold, distributed, or used in the United States; or

(D) any cigarettes for which there has not been submitted to the Secretary of the U.S. Department of Health and Human Services the list or lists of the ingredients added to tobacco in the manufacture of the cigarettes required by the federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1335a;

(2) to alter the package of any cigarettes, prior to sale or distribution to the ultimate consumer, so as to remove, conceal, or obscure:

(A) any statement, label, stamp, sticker, or notice described in subdivision (a)(1)(A)(i) of this Section;

(B) any health warning that is not specified in, or does not conform with the requirements of, the federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1333; ~~or~~

(3) to affix any stamp required pursuant to this Act to the package of any cigarettes described in subdivision (a)(1) of this Section or altered in violation of subdivision (a)(2); or ~~.~~

(4) to knowingly possess, or possess for sale, contraband cigarettes.

(b) Documentation. On the first business day of each month, each person licensed to affix the State tax stamp to cigarettes shall file with the Department, for all cigarettes imported into the United States to which the person has affixed the tax stamp in the preceding month:

(1) a copy of:

(A) the permit issued pursuant to the Internal Revenue Code, 26 U.S.C. 5713, to the person importing the cigarettes into the United States allowing the person to import the cigarettes; and

(B) the customs form containing, with respect to the cigarettes, the internal revenue tax information required by the U.S. Bureau of Alcohol, Tobacco and Firearms;

(2) a statement, signed by the person under penalty of perjury, which shall be treated as confidential by the Department and exempt from disclosure under the Freedom of Information Act, identifying the brand and brand styles of all such cigarettes, the quantity of each brand style of such cigarettes, the supplier of such cigarettes, and the person or persons, if any, to whom such cigarettes have been conveyed for resale; and a separate statement, signed by the individual under penalty of perjury, which shall not be treated as confidential or exempt from disclosure, separately identifying the brands and brand styles of such cigarettes; and

(3) a statement, signed by an officer of the manufacturer or importer under penalty of perjury, certifying that the manufacturer or importer has complied with:

(A) the package health warning and ingredient reporting requirements of the federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1333 and 1335a, with respect to such cigarettes; and

(B) the provisions of Exhibit T of the Master Settlement Agreement entered in the case of People of the State of Illinois v. Philip Morris, et al. (Circuit Court of Cook County, No. 96-L13146), including a statement indicating whether the manufacturer is, or is not, a participating tobacco manufacturer within the meaning of Exhibit T.

(c) Administrative sanctions.

(1) Upon finding that a distributor has committed any of the acts prohibited by subsection (a), knowing or having reason to know that he or she has done so, or has failed to comply with any requirement of subsection (b), the Department may revoke or suspend the license or licenses of any distributor pursuant to the procedures set forth in Section 6 and impose on the distributor a civil penalty in an amount not to exceed the greater of 500% of the retail value of the cigarettes involved or $5,000.

(2) Cigarettes that are acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this State in violation of this Section shall be deemed contraband under this Act and are subject to seizure and forfeiture as provided in this Act, and all such cigarettes seized and forfeited shall be destroyed. Such cigarettes shall be deemed contraband whether the violation of this Section is knowing or otherwise.

(d) Unfair trade practices. A violation of subsection (a) or subsection (b) of this Section shall constitute an unlawful practice as provided in the Consumer Fraud and Deceptive Business Practices Act.

(e) Unfair cigarette sales. For purposes of the Trademark Registration and Protection Act and the Counterfeit Trademark Act, cigarettes imported or reimported into the United States for sale or distribution under any trade name, trade dress, or trademark that is the same as, or is confusingly similar to, any trade name, trade dress, or trademark used for cigarettes manufactured in the United States for sale or distribution in the United States shall be presumed to have been purchased outside of the ordinary channels of trade.

(f) General provisions.

(1) This Section shall be enforced by the Department; provided that, at the request of the Director of Revenue or the Director's duly authorized agent, the State police and all local police authorities shall enforce the provisions of this Section. The Attorney General has concurrent power with the State's Attorney of any county to enforce this Section.

(2) For the purpose of enforcing this Section, the Director of Revenue and any agency to which the Director has delegated enforcement responsibility pursuant to subdivision (f)(1) may request information from any State or local agency and may share information with and request information from any federal agency and any agency of any other state or any local agency of any other state.

(3) In addition to any other remedy provided by law, including enforcement as provided in subdivision (a)(1), any person may bring an action for appropriate injunctive or other equitable relief for a violation of this Section; actual damages, if any, sustained by reason of the violation; and, as determined by the court, interest on the damages from the date of the complaint, taxable costs, and reasonable attorney's fees. If the trier of fact finds that the violation is flagrant, it may increase recovery to an amount not in excess of 3 times the actual damages sustained by reason of the violation.

(g) Definitions. As used in this Section:

"Importer" means that term as defined in 26 U.S.C. 5702(1).

"Package" means that term as defined in 15 U.S.C. 1332(4).

(h) Applicability.

(1) This Section does not apply to:

(A) cigarettes allowed to be imported or brought into the United States for personal use; and

(B) cigarettes sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C. 1555(b) and any implementing regulations; except that this Section shall apply to any such cigarettes that are brought back into the customs territory for resale within the customs territory.

(2) The penalties provided in this Section are in addition to any other penalties imposed under other provision of law.

(Source: P.A. 91-810, eff. 6-13-00.)

(35 ILCS 130/3-15 new)

Sec. 3-15. Criminal and civil penalties.

(a) Civil penalties.

(1) Distributors and manufacturers. Except as otherwise provided in this Section, a first violation of any provision of this Act by a manufacturer or distributor shall, in addition to any other penalty provided in this Act, be punishable by a fine of $5,000 for each separate violation, which shall be recovered, with costs of suit, in a civil action. Any subsequent violation of any provision of this Act by a manufacturer or distributor shall be punishable by a fine of $10,000 for each separate violation. In no case shall the fine imposed under this paragraph exceed 10 times the retail value of the cigarettes.

(2) Retailers. Except as otherwise provided in this Section, a first violation of any provision of this Act by a retailer shall, in addition to any other penalty provided in this Act, be punishable by a fine of $1,000 for each separate violation, which shall be recovered, with costs of suit, in a civil action. Any subsequent violation of any provision of this Act by a retailer shall be punishable by a fine of $2,000 for each separate violation. In no case shall the fine imposed under this paragraph exceed 10 times the retail value of the cigarettes.

(3) Failure to pay tax. Any person that fails to pay any tax imposed by this State at the time prescribed by law or regulations shall, in addition to any other penalty provided in this Act, be liable to a penalty of 3 times the tax due but unpaid, to help defray the costs of detection and investigation and any consequential damages. In no case shall the fine imposed under this paragraph exceed 10 times the retail value of the cigarettes.

(4) Civil forfeiture.

(A) All cigarettes which are held for sale or distribution within this State in violation of the requirements of this Act shall be forfeited to this State. All cigarettes forfeited to this State under this Act shall be destroyed. The Department may, prior to any destruction of cigarettes, permit the true holder of the trademark rights in the cigarette brand to inspect such contraband cigarettes, in order to assist the Department in any investigation regarding such cigarettes.

(B) Any person that, with intent to defraud the State:

(i) fails to keep or make any record, return, report, or inventory required by this Act;

(ii) keeps or makes any false or fraudulent record, return, report, or inventory required by this Act;

(iii) refuses to pay any tax imposed by this Act; or

(iv) attempts in any manner to evade or defeat the requirements of this Act shall forfeit to the State all fixtures, equipment, and other materials with a substantial connection to such conduct.

(C) A distributor or retailer shall not be required to forfeit fixtures, equipment, and all other materials and personal property on the premises if such distributor or retailer:

(i) acted in good faith;

(ii) was not involved in or aware of the unlawful activity prohibited by this Act; and

(iii) did all that reasonably could be expected under the circumstances to prevent violations of this Act.

(5) Notwithstanding any other provision of law, the Department may use proceeds from civil penalties imposed under this Section to offset necessary and reasonable expenses incurred in the detection and investigation of the failure of any person to pay any cigarette tax imposed by this State.

(b) Criminal penalties.

(1) Fraudulent offenses. Whoever intentionally fails to comply with any of the requirements of this Act or regulations prescribed hereunder shall, in addition to any other penalty provided in this Act, for each such offense, be guilty of a Class 3 felony.

(2) Knowing offenses. Whoever, knowingly violates any of the requirements of this Act or regulations prescribed hereunder shall, in addition to any other penalty provided in this Act, for each

such offense, be guilty of a Class 4 felony.

(3) Penalties for contraband. Notwithstanding any other provision of law, the possession for sale of contraband cigarettes by a manufacturer, distributor, or retailer shall be punishable as follows:

(A) A person who commits a first knowing violation shall be guilty of a Class 4 felony.

(B) A person who commits a subsequent knowing violation shall be guilty of a Class 3 felony and shall have his or her license, permit, or sub-certificate revoked by the Department. In no case shall the fine imposed under this paragraph exceed ten times the retail value of the cigarettes.

(4) For purposes of this Section, the term contraband cigarettes includes cigarettes that have false manufacturing labels or packs of cigarettes bearing counterfeit tax stamps. Any contraband cigarette seized by this State shall be destroyed. The Department may, prior to any destruction of cigarettes, permit the true holder of the trademark rights in the cigarette brand to inspect such contraband cigarettes, in order to assist the Department in any investigation regarding such cigarettes.

(5) The penalties provided in paragraph (3) shall not apply where a licensed distributor is in possession of contraband cigarettes as a result of such cigarettes being returned to the distributor by a retailer if such distributor promptly notified appropriate law enforcement authorities.

(6) Criminal forfeiture.

(A) Notwithstanding any other provision of law, the possession for sale of contraband cigarettes by a manufacturer, distributor, or retailer shall, after notice and hearing, result in the forfeiture to this State of the product and related machinery and equipment used in the production of contraband cigarettes, or to falsely mark cigarettes to reflect the payment of excise taxes.

(B)The knowing sale or possession for sale of contraband cigarettes shall, after notice and hearing, result in the seizure of all related machinery and equipment.

(C) All cigarettes forfeited to this State under this Section shall be destroyed. The Department may, prior to any destruction of cigarettes, permit the true holder of the trademark rights in the cigarette brand to inspect such contraband cigarettes, in order to assist the Department in any investigation regarding such cigarettes.

(35 ILCS 130/4) (from Ch. 120, par. 453.4)

Sec. 4. Distributor's license. No person may engage in business as a distributor of cigarettes in this State within the meaning of the first 2 definitions of distributor in Section 1 of this Act without first having obtained a license therefor from the Department. Application for license shall be made to the Department in form as furnished and prescribed by the Department. Each applicant for a license under this Section shall furnish to the Department on the form signed and verified by the applicant under penalty of perjury the following information:

(a) The name and address of the applicant;

(b) The address of the location at which the applicant proposes to engage in business as a distributor of cigarettes in this State;

(c) Such other additional information as the Department may lawfully require by its rules and regulations.

The annual license fee payable to the Department for each distributor's license shall be $250. The purpose of such annual license fee is to defray the cost, to the Department, of serializing cigarette tax stamps. Each applicant for license shall pay such fee to the Department at the time of submitting his application for license to the Department.

Every applicant who is required to procure a distributor's license shall file with his application a joint and several bond. Such bond shall be executed to the Department of Revenue, with good and sufficient surety or sureties residing or licensed to do business within the State of Illinois, in the amount of $2,500, conditioned upon the true and faithful compliance by the licensee with all of the provisions of this Act. Such bond, or a reissue thereof, or a substitute therefor, shall be kept in effect during the entire period covered by the license. A separate application for license shall be made, a separate annual license fee paid, and a separate bond filed, for each place of business at which a person who is required to procure a distributor's license under this Section proposes to engage in business as a distributor in Illinois under this Act.

The following are ineligible to receive a distributor's license under this Act:

(1) a person who is not of good character and reputation in the community in which he resides;

(2) a person who has been convicted of a felony under any Federal or State law, if the Department, after investigation and a hearing, if requested by the applicant, determines that such person has not been sufficiently rehabilitated to warrant the public trust;

(3) a corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than 5% of the stock of such corporation, would not

be eligible to receive a license under this Act for any reason.

(4) a person, or any person who owns more than 15 percent of the ownership interests in a person or a related party who:

(a) owes, at the time of application, $500 or more in delinquent cigarette taxes that have been determined by law to be due and unpaid, unless the license applicant has entered into an agreement approved by the Department to pay the amount due;

(b) had a license under this Act revoked within the past two years by the Department for willful misconduct relating to stolen or contraband cigarettes or has been convicted of a State or federal crime, punishable by imprisonment of one year or more, relating to stolen or contraband cigarettes;

(c) is a distributor who manufactures cigarettes who is neither (i) a participating manufacturer as defined in subsection II(jj) of the "Master Settlement Agreement" as defined in Sections 10 of the Tobacco Products Manufacturers' Escrow Act and the Tobacco Products Manufacturers' Escrow Enforcement Act of 2003 (30 ILCS 168/10 and 30 ILCS 167/10); nor (ii) in full compliance with Tobacco Products Manufacturers' Escrow Act and the Tobacco Products Manufacturers' Escrow Enforcement Act of 2003 (30 ILCS 168/ and 30 ILCS 167/);

(d) has been found to have willfully imported or caused to be imported into the United States for sale or distribution any cigarette in violation of 19 U.S.C. 1681a;

(e) has been found to have willfully imported or caused to be imported into the United States for sale or distribution or manufactured for sale or distribution in the United States any cigarette that does not fully comply with the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331, et. seq.); or

(f) has willfully made a material false statement in the application or has willfully failed to produce records required to be maintained by this Act.

The Department, upon receipt of an application, license fee and bond in proper form, from a person who is eligible to receive a distributor's license under this Act, shall issue to such applicant a license in form as prescribed by the Department, which license shall permit the applicant to which it is issued to engage in business as a distributor at the place shown in his application. All licenses issued by the Department under this Act shall be valid for not to exceed one year after issuance unless sooner revoked, canceled or suspended as provided in this Act. No license issued under this Act is transferable or assignable. Such license shall be conspicuously displayed in the place of business conducted by the licensee in Illinois under such license. No distributor licensee acquires any vested interest or compensable property right in a license issued under this Act.

A licensed distributor shall notify the Department of any change in the information contained on the application form, including any change in ownership and shall do so within 30 days after any such change.

Any person aggrieved by any decision of the Department under this Section may, within 20 days after notice of the decision, protest and request a hearing. Upon receiving a request for a hearing, the Department shall give notice to the person requesting the hearing of the time and place fixed for the hearing and shall hold a hearing in conformity with the provisions of this Act and then issue its final administrative decision in the matter to that person. In the absence of a protest and request for a hearing within 20 days, the Department's decision shall become final without any further determination being made or notice given.

(Source: P.A. 91-901, eff. 1-1-01; 92-322, eff. 1-1-02.)

(35 ILCS 130/4d new)

Sec. 4d. Transactions only with licensed distributors, out-of-state manufacturers holding a permit, and retailers holding a certificate of registration. A distributor or manufacturer may sell or distribute cigarettes to a person located or doing business within this State only if such person is a licensed distributor or retailer holding a certificate of registration. A retailer may only sell cigarettes obtained from a licensed distributor or an out-of-state manufacturer holding a permit.

(35 ILCS 130/4g new)

Sec. 4g. Maintenance of and publication of list of licensees and permittees whose licenses or permits have been suspended, cancelled, or revoked. Within 30 days after the effective date of this amendatory Act of the 95th General Assembly, the Department shall create and maintain a website setting forth the identity of all persons whose licenses or permits have been suspended, cancelled, or revoked under this Act within the past 3 years, itemized by type of license, permit, or and shall update the website within 30 days after the date the Department suspends, cancels, or revokes any person's license or permit. The Department shall, at a minimum, include on the website the legal name, the business locations, the unique numerical identifier issued prior to the suspension, cancellation, or revocation of the license or permit, and any name under which such licensee or permittee regularly does business.

(35 ILCS 130/20) (from Ch. 120, par. 453.20)

Sec. 20. Whenever any peace officer of the State or any duly authorized officer or employee of the Department shall have reason to believe that any violation of this Act has occurred and that the person so violating the Act has in his, her or its possession any original package of cigarettes, not tax stamped or tax imprinted underneath the sealed transparent wrapper of such original package as required by this Act, or any vending device containing such original packages to which stamps have not been affixed, or on which an authorized substitute for stamps has not been imprinted underneath the sealed transparent wrapper of such original packages, as required by this Act, he may file or cause to be filed his complaint in writing, verified by affidavit, with any court within whose jurisdiction the premises to be searched are situated, stating the facts upon which such belief is founded, the premises to be searched, and the property to be seized, and procure a search warrant and execute the same. Upon the execution of such search warrant, the peace officer, or officer or employee of the Department, executing such search warrant shall make due return thereof to the court issuing the same, together with an inventory of the property taken thereunder. The court shall thereupon issue process against the owner of such property if he is known; otherwise, such process shall be issued against the person in whose possession the property so taken is found, if such person is known. In case of inability to serve such process upon the owner or the person in possession of the property at the time of its seizure, as hereinbefore provided, notice of the proceedings before the court shall be given as required by the statutes of the State governing cases of Attachment. Upon the return of the process duly served or upon the posting or publishing of notice made, as hereinabove provided, the court or jury, if a jury shall be demanded, shall proceed to determine whether or not such property so seized was held or possessed in violation of this Act, or whether, if a vending device has been so seized, it contained at the time of its seizure original packages not tax stamped or tax imprinted underneath the sealed transparent wrapper of such original packages as required by this Act. In case of a finding that the original packages seized were not tax stamped or tax imprinted underneath the sealed transparent wrapper of such original packages in accordance with the provisions of this Act, or that any vending device so seized contained at the time of its seizure original packages not tax stamped or tax imprinted underneath the sealed transparent wrapper of such original packages in accordance with the provisions of this Act, judgment shall be entered confiscating and forfeiting the property to the State and ordering its delivery to the Department, and in addition thereto, the court shall have power to tax and assess the costs of the proceedings.

When any original packages or any cigarette vending device shall have been declared forfeited to the State by any court, as hereinbefore provided, and when such confiscated and forfeited property shall have been delivered to the Department, as provided in this Act, the said Department shall destroy ~~sell~~ such property . The Department may, prior to any destruction of cigarettes, permit the true holder of the trademark rights in the cigarette brand to inspect such contraband cigarettes, in order to assist the Department in any investigation regarding such cigarettes. ~~for the best price obtainable and shall forthwith pay over the proceeds of such sale to the State Treasurer; provided, however, that if the value of such property to be sold at any one time shall be $500 or more, such property shall be sold only to the highest and best bidder on such terms and conditions and on open competitive bidding after public advertisement, in such manner and for such terms as the Department, by rule, may prescribe.~~

~~Upon making such a sale of original packages of cigarettes which were not tax stamped or tax imprinted underneath the sealed transparent wrapper of such original packages as required by this Act, the Department shall affix a distinctive stamp to each of the original packages so sold indicating that the same are sold pursuant to the provisions of this Section.~~

(Source: Laws 1965, p. 3707.)

(35 ILCS 130/21) (from Ch. 120, par. 453.21)

Sec. 21. Destruction or use of forfeited property.

(a) When any original packages of cigarettes or any cigarette vending device shall have been declared forfeited to the State by the Department, as provided in Section 18a of this Act, and when all proceedings for the judicial review of the Department's decision have terminated, the Department shall, to the extent that its decision is sustained on review, destroy~~,~~ or maintain and use such property in an undercover capacity ~~, or sell such property for the best price obtainable and shall forthwith pay over the proceeds of such sale to the State Treasurer. If the value of such property to be sold at any one time is $500 or more, however, such property shall be sold only to the highest and best bidder on such terms and conditions and on open competitive bidding after public advertisement, in such manner and for such terms as the Department, by rule, may prescribe~~.

(b) The Department may, prior to any destruction of cigarettes, permit the true holder of the trademark rights in the cigarette brand to inspect such contraband cigarettes in order to assist the Department in any investigation regarding such cigarettes. ~~If no complaint for review, as provided in Section 8 of this Act,~~

~~has been filed within the time required by the Administrative Review Law, and if no stay order has been entered thereunder, the Department shall proceed to sell the property for the best price obtainable and shall forthwith pay over the proceeds of such sale to the State Treasurer. If the value of such property to be sold at any one time is $500 or more, however, such property shall be sold only to the highest and best bidder on such terms and conditions and on open competitive bidding after public advertisement, in such manner and for such terms as the Department, by rule, may prescribe.~~

~~(c) Upon making a sale of unstamped original packages of cigarettes as provided in this Section, the Department shall affix a distinctive stamp to each of the original packages so sold indicating that the same are sold under this Section.~~

~~(d) Notwithstanding the foregoing, any cigarettes seized under this Act or under the Cigarette Use Tax Act may, at the discretion of the Director of Revenue, be distributed to any eleemosynary institution within the State of Illinois.~~

(Source: P.A. 94-776, eff. 5-19-06.)

(35 ILCS 130/9c rep.) (35 ILCS 130/28 rep.)

Section 10. The Cigarette Tax Act is amended by repealing Sections 9c and 28.

Section 15. The Prevention of Cigarette Sales to Minors Act is amended by changing Sections 5 and 10 and by adding Sections 2, 6, 7, 8, 9, 20, 25, and 30 as follows:

(720 ILCS 678/2 new)

Sec. 2. Definitions. For the purpose of this Act:

"Clear and conspicuous statement" means the statement is of sufficient type size to be clearly readable by the recipient of the communication.

"Consumer" means an individual who acquires or seeks to acquire cigarettes for personal use.

"Delivery sale" means any sale of cigarettes to a consumer if:

(a) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

(b) the cigarettes are delivered by use of a common carrier, private delivery service, or the mails, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes.

"Delivery service" means any person (other than a person that makes a delivery sale) who delivers to the consumer the cigarettes sold in a delivery sale.

"Department" means the Department of Revenue.

"Government-issued identification" means a State driver's license, State identification card, passport, a military identification or an official naturalization or immigration document, such as an alien registration recipient card (commonly known as a "green card") or an immigrant visa.

"Legal minimum age" means the minimum age at which an individual may legally purchase cigarettes within this State, as determined by either State or local government.

"Mails" or "mailing" mean the shipment of cigarettes through the United States Postal Service.

"Out-of-state sale" means a sale of cigarettes to a consumer located outside of this State where the consumer submits the order for such sale by means of a telephonic or other method of voice transmission, the mails or any other delivery service, facsimile transmission, or the Internet or other online service and where the cigarettes are delivered by use of the mails or other delivery service.

"Person" means any individual, corporation, partnership, limited liability company, association, or other organization that engages in any for profit or not-for-profit activities.

"Shipping package" means a container in which packs or cartons of cigarettes are shipped in connection with a delivery sale.

"Shipping documents" means bills of lading, air bills, or any other documents used to evidence the undertaking by a delivery service to deliver letters, packages, or other containers.

"Within this State" means within the exterior limits of the State of Illinois and includes all territory within these limits owned by or ceded to the United States of America.

(720 ILCS 678/5)

Sec. 5. Unlawful shipment or transportation of cigarettes.

(a) It is unlawful for any person engaged in the business of selling cigarettes to ship or cause to be shipped any cigarettes unless the person shipping the cigarettes:

(1) is licensed as a distributor under either the Cigarette Tax Act, or the Cigarette Use Tax Act; or delivers the cigarettes to a distributor licensed under either the Cigarette Tax Act or the Cigarette Use Tax Act; or

(2) ships them to an export warehouse proprietor pursuant to Chapter 52 of the Internal Revenue Code, or an operator of a customs bonded warehouse pursuant to Section 1311 or 1555 of

Title 19 of the United States Code.

For purposes of this subsection (a), a person is a licensed distributor if the person's name appears on a list of licensed distributors published by the Illinois Department of Revenue. The term cigarette has the same meaning as defined in Section 1 of the Cigarette Tax Act and Section 1 of the Cigarette Use Tax Act. Nothing in this Act prohibits a person licensed as a distributor under the Cigarette Tax Act or the Cigarette Use Tax Act from shipping or causing to be shipped any cigarettes to a registered retailer under the Retailers' Occupation Tax Act and the Cigarette Tax Act provided the cigarette tax or cigarette use tax has been paid.

(b) A common or contract carrier may transport cigarettes to any individual person in this State only if the carrier reasonably believes such cigarettes have been received from a person described in paragraph (a)(1). Common or contract carriers may make deliveries of cigarettes to licensed distributors described in paragraph (a)(1) of this Section. Nothing in this subsection (b) shall be construed to prohibit a person other than a common or contract carrier from transporting not more than 1,000 cigarettes at any one time to any person in this State.

(c) A common or contract carrier may not complete the delivery of any cigarettes to persons other than those described in paragraph (a)(1) of this Section without first obtaining from the purchaser an official written identification from any state or federal agency that displays the person's date of birth or a birth certificate that includes a reliable confirmation that the purchaser is at least 18 years of age; that the cigarettes purchased are not intended for consumption by an individual who is younger than 18 years of age; and a written statement signed by the purchaser that certifies the purchaser's address and that the purchaser is at least 18 years of age. The statement shall also confirm: (1) that the purchaser understands that signing another person's name to the certification is illegal; (2) that the sale of cigarettes to individuals under 18 years of age is illegal; and (3) that the purchase of cigarettes by individuals under 18 years of age is illegal under the laws of Illinois.

(d) When a person engaged in the business of selling cigarettes ships or causes to be shipped any cigarettes to any person in this State, other than in the cigarette manufacturer's or tobacco products manufacturer's original container or wrapping, the container or wrapping must be plainly and visibly marked with the word "cigarettes".

(e) When a peace officer of this State or any duly authorized officer or employee of the Illinois Department of Public Health or Department of Revenue discovers any cigarettes which have been or which are being shipped or transported in violation of this Section, he or she shall seize and take possession of the cigarettes, and the cigarettes shall be subject to a forfeiture action pursuant to the procedures provided under the Cigarette Tax Act or Cigarette Use Tax Act.

(Source: P.A. 93-960, eff. 8-20-04.)

(720 ILCS 678/6 new)

Sec. 6. Prevention of delivery sales to minors.

(a) No person shall make a delivery sale of cigarettes to any individual who is under the legal minimum age.

(b) Each person accepting a purchase order for a delivery sale shall comply with the provisions of this Act and all other laws of this State generally applicable to sales of cigarettes that occur entirely within this State, including, but not limited to, those laws imposing: (i) excise taxes; (ii) sales taxes; (iii) license and revenue-stamping requirements; and (iv) escrow payment obligations.

(720 ILCS 678/7 new)

Sec. 7. Age verification and shipping requirements to prevent delivery sales to minors.

(a) No person, other than a delivery service, shall mail, ship, or otherwise cause to be delivered a shipping package in connection with a delivery sale unless the person:

(1) prior to the first delivery sale to the prospective consumer, obtains from the prospective consumer a written certification which includes a statement signed by the prospective consumer that certifies:

(A) the prospective consumer's current address; and

(B) that the prospective consumer is at least the legal minimum age;

(2) informs, in writing, such prospective consumer that:

(A) the signing of another person's name to the certification described in this Section is illegal;

(B) sales of cigarettes to individuals under the legal minimum age are illegal;

(C) the purchase of cigarettes by individuals under the legal minimum age is illegal; and

(D) the name and identity of the prospective consumer may be reported to the state of the consumer's current address under the Act of October 19, 1949 (15 U.S.C. § 375, et seq.), commonly known as the Jenkins Act;

(3) makes a good faith effort to verify the date of birth of the prospective customer provided

pursuant to this Section by:

(A) comparing the date of birth against a commercially available database or

(B) obtaining a photocopy or other image of a valid, government-issued identification stating the date of birth or age of the prospective consumer;

(4) provides to the prospective consumer a notice that meets the requirements of subsection (b);

(5) receives payment for the delivery sale from the prospective consumer by a credit or debit card that has been issued in such consumer's name, or by a check or other written instrument in such consumer's name; and

(6) ensures that the shipping package is delivered to the same address as is shown on the government-issued identification or contained in the commercially available database.

(b) The notice required under this Section shall include:

(1) a statement that cigarette sales to consumers below the legal minimum age are illegal;

(2) a statement that sales of cigarettes are restricted to those consumers who provide verifiable proof of age in accordance with subsection (a);

(3) a statement that cigarette sales are subject to tax under Section 2 of the Cigarette Tax Act (35 ILCS 130/2) and an explanation of how such tax has been, or is to be, paid with respect to such delivery sale.

(c) A statement meets the requirement of this Section if:

(1) the statement is clear and conspicuous;

(2) the statement is contained in a printed box set apart from the other contents of the communication;

(3) the statement is printed in bold, capital letters;

(4) the statement is printed with a degree of color contrast between the background and the printed statement that is no less than the color contrast between the background and the largest text used in the communication; and

(5) for any printed material delivered by electronic means, the statement appears at both the top and the bottom of the electronic mail message or both the top and the bottom of the Internet website homepage.

(d) Each person, other than a delivery service, who mails, ships, or otherwise causes to be delivered a shipping package in connection with a delivery sale shall:

(1) include as part of the shipping documents a clear and conspicuous statement stating: "Cigarettes: Illinois Law Prohibits Shipping to Individuals Under 18 and Requires the Payment of All Applicable Taxes";

(2) use a method of mailing, shipping, or delivery that requires a signature before the shipping package is released to the consumer; and

(3) ensure that the shipping package is not delivered to any post office box.

(720 ILCS 678/8 new)

Sec. 8. Registration and reporting requirements to prevent delivery sales to minors.

(a) Each person who makes a delivery sale of cigarettes to a consumer located within this State shall file with the Department for each individual sale:

(1) a statement setting forth such person's name, trade name, and the address of such person's principal place of business and any other place of business; and

(2) not later than the tenth day of each calendar month, a memorandum or copy of the invoice for each and every such delivery sale made during the previous calendar month, which includes the following information:

(A) the name and address of the consumer to whom such delivery sale was made;

(B) the brand style or brand styles of the cigarettes that were sold in such delivery sale;

(C) the quantity of cigarettes that were sold in such delivery sale; and

(D) an indication of whether or not the cigarettes sold in the delivery sale bore a tax stamp evidencing payment of the tax under Section 2 of the Cigarette Tax Act (35 ILCS 130/2).

(b) Each person engaged in business within this State who makes an out-of-state sale shall, for each individual sale, submit to the appropriate tax official of the state in which the consumer is located the information required in subsection (a).

(c) Any person that satisfies the requirements of 15 U.S.C. Section 376 shall be deemed to satisfy the requirements of subsections (a) and (b).

(d) The Department is authorized to disclose to the Attorney General any information received under this title and requested by the Attorney General. The Department and the Attorney General shall share with each other the information received under this title and may share the information with other federal, State, or local agencies for purposes of enforcement of this title or the laws of the Federal

government or of other States.

(e) This Section shall not be construed to impose liability upon any delivery service, or officers or employees thereof, when acting within the scope of business of the delivery service.

(720 ILCS 678/9 new)

Sec. 9. Statements for delivery sales.

(a) Each person who makes a delivery sale shall collect and remit to the Department all excise taxes imposed by this State with respect to such delivery sale and maintain evidence of such payment unless the person is located outside the State and includes a statement on the outside of the shipping package stating: "Illinois law requires the payment of state taxes on this shipment of cigarettes. You are legally responsible for all applicable unpaid state taxes on these cigarettes."

(b) A statement meets the requirements of subsection (a) if the statement is:

(1) clear and conspicuous;

(2) contained in a printed box set apart from the shipping label and other markings contained on the shipping package;

(3) printed in bold, capital letters;

(4) printed with a degree of color contrast between the background and the printed statement that is no less than the color contrast between the background and the largest text used on the shipping label; and

(5) located on the same side of the shipping package as the shipping label.

(720 ILCS 678/10)

Sec. 10. Violation.

(a) A person who violates subsection (a), (b), or (c) of Section 5 or Section, 6, 7, 8, or 9 is guilty of a Class A misdemeanor. A second or subsequent violation of subsection (a), (b), or (c) of Section 5 or Section, 6, 7, 8, or 9 is a Class 4 felony.

(b) The Department of Revenue shall impose a civil penalty not to exceed $5,000 on any person who violates subsection (a), (b), or (c) of Section 5 or Sections 6, 7, 8, or 9. The Department of Revenue shall impose a civil penalty not to exceed $5,000 on any person engaged in the business of selling cigarettes who ships or causes to be shipped any such cigarettes to any person in this State in violation of subsection (d) of Section 5.

(c) All cigarettes sold or attempted to be sold in a delivery sale that does not meet the requirements of this Act shall be forfeited to the State. All cigarettes forfeited to this State under this Act shall be destroyed. The Department may, prior to any destruction of cigarettes, permit the true holder of the trademark rights in the cigarette brand to inspect such contraband cigarettes, in order to assist the Department in any investigation regarding such cigarettes.

(d) ~~(c)~~ Any person aggrieved by any decision of the Department of Revenue may, within 60 days after notice of that decision, protest in writing and request a hearing. The Department of Revenue shall give notice to the person of the time and place for the hearing and shall hold a hearing before it issues a final administrative decision. Absent a written protest within 60 days, the Department's decision shall become final without any further determination made or notice given.

(Source: P.A. 93-960, eff. 8-20-04.)

(720 ILCS 678/20 new)

Sec. 20. Tip line.

(a) Not later than 120 days after the effective date of this amendatory Act of the 95th General Assembly, the Department shall establish, publicize, and maintain a toll-free telephone number to receive information related to violations of this Act.

(b) The Attorney General may pay a reward of up to $5,000 to any person who furnishes information leading to the Department's collection of excise taxes imposed upon delivery sales which otherwise would not have been collected but for the information provided by the person.

(720 ILCS 678/25 new)

Sec. 25. Construction. The requirements imposed by this Act shall not apply where such application would be contrary to the Constitution and laws of the United States.

(720 ILCS 678/30 new)

Sec. 30. Severability. If any provision of this Act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining provisions of this Act, and to this end the provisions of this Act are expressly declared to be severable.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Link, **Senate Bill No. 801**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Risinger
Bivins	Forby	Lightford	Rutherford
Bomke	Frerichs	Link	Sandoval
Bond	Garrett	Maloney	Schoenberg
Brady	Haine	Martinez	Silverstein
Burzynski	Halvorson	Meeks	Steans
Clayborne	Harmon	Millner	Sullivan
Collins	Hendon	Munoz	Syverson
Cronin	Holmes	Murphy	Trotter
Crotty	Hultgren	Noland	Viverito
Cullerton	Hunter	Pankau	Watson
Dahl	Jacobs	Peterson	Wilhelmi
DeLeo	Jones, J.	Radogno	Mr. President
Delgado	Koehler	Raoul	
Demuzio	Kotowski	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Clayborne, **Senate Bill No. 848** was recalled from the order of third reading to the order of second reading.

Senator Clayborne offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 848

AMENDMENT NO. 1. Amend Senate Bill 848 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Section 19-1 as follows:

(105 ILCS 5/19-1) (from Ch. 122, par. 19-1)

Sec. 19-1. Debt limitations of school districts.

(a) School districts shall not be subject to the provisions limiting their indebtedness prescribed in "An Act to limit the indebtedness of counties having a population of less than 500,000 and townships, school districts and other municipal corporations having a population of less than 300,000", approved February 15, 1928, as amended.

No school districts maintaining grades K through 8 or 9 through 12 shall become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding 6.9% on the value of the taxable property therein to be ascertained by the last assessment for State and county taxes or, until January 1, 1983, if greater, the sum that is produced by multiplying the school

district's 1978 equalized assessed valuation by the debt limitation percentage in effect on January 1, 1979, previous to the incurring of such indebtedness.

No school districts maintaining grades K through 12 shall become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding 13.8% on the value of the taxable property therein to be ascertained by the last assessment for State and county taxes or, until January 1, 1983, if greater, the sum that is produced by multiplying the school district's 1978 equalized assessed valuation by the debt limitation percentage in effect on January 1, 1979, previous to the incurring of such indebtedness.

No partial elementary unit district, as defined in Article 11E of this Code, shall become indebted in any manner or for any purpose in an amount, including existing indebtedness, in the aggregate exceeding 6.9% of the value of the taxable property of the entire district, to be ascertained by the last assessment for State and county taxes, plus an amount, including existing indebtedness, in the aggregate exceeding 6.9% of the value of the taxable property of that portion of the district included in the elementary and high school classification, to be ascertained by the last assessment for State and county taxes. Moreover, no partial elementary unit district, as defined in Article 11E of this Code, shall become indebted on account of bonds issued by the district for high school purposes in the aggregate exceeding 6.9% of the value of the taxable property of the entire district, to be ascertained by the last assessment for State and county taxes, nor shall the district become indebted on account of bonds issued by the district for elementary purposes in the aggregate exceeding 6.9% of the value of the taxable property for that portion of the district included in the elementary and high school classification, to be ascertained by the last assessment for State and county taxes.

Notwithstanding the provisions of any other law to the contrary, in any case in which the voters of a school district have approved a proposition for the issuance of bonds of such school district at an election held prior to January 1, 1979, and all of the bonds approved at such election have not been issued, the debt limitation applicable to such school district during the calendar year 1979 shall be computed by multiplying the value of taxable property therein, including personal property, as ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness, by the percentage limitation applicable to such school district under the provisions of this subsection (a).

(b) Notwithstanding the debt limitation prescribed in subsection (a) of this Section, additional indebtedness may be incurred in an amount not to exceed the estimated cost of acquiring or improving school sites or constructing and equipping additional building facilities under the following conditions:

(1) Whenever the enrollment of students for the next school year is estimated by the board of education to increase over the actual present enrollment by not less than 35% or by not less than 200 students or the actual present enrollment of students has increased over the previous school year by not less than 35% or by not less than 200 students and the board of education determines that additional school sites or building facilities are required as a result of such increase in enrollment; and

(2) When the Regional Superintendent of Schools having jurisdiction over the school district and the State Superintendent of Education concur in such enrollment projection or increase and approve the need for such additional school sites or building facilities and the estimated cost thereof; and

(3) When the voters in the school district approve a proposition for the issuance of bonds for the purpose of acquiring or improving such needed school sites or constructing and equipping such needed additional building facilities at an election called and held for that purpose. Notice of such an election shall state that the amount of indebtedness proposed to be incurred would exceed the debt limitation otherwise applicable to the school district. The ballot for such proposition shall state what percentage of the equalized assessed valuation will be outstanding in bonds if the proposed issuance of bonds is approved by the voters; or

(4) Notwithstanding the provisions of paragraphs (1) through (3) of this subsection (b), if the school board determines that additional facilities are needed to provide a quality educational program and not less than 2/3 of those voting in an election called by the school board on the question approve the issuance of bonds for the construction of such facilities, the school district may issue bonds for this purpose; or

(5) Notwithstanding the provisions of paragraphs (1) through (3) of this subsection (b), if (i) the school district has previously availed itself of the provisions of paragraph (4) of this subsection (b) to enable it to issue bonds, (ii) the voters of the school district have not defeated a proposition for the issuance of bonds since the referendum described in paragraph (4) of this subsection (b) was held, (iii) the school board determines that additional facilities are needed to provide a quality educational program, and (iv) a majority of those voting in an election called by the

school board on the question approve the issuance of bonds for the construction of such facilities, the school district may issue bonds for this purpose.

In no event shall the indebtedness incurred pursuant to this subsection (b) and the existing indebtedness of the school district exceed 15% of the value of the taxable property therein to be ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness or, until January 1, 1983, if greater, the sum that is produced by multiplying the school district's 1978 equalized assessed valuation by the debt limitation percentage in effect on January 1, 1979.

The indebtedness provided for by this subsection (b) shall be in addition to and in excess of any other debt limitation.

(c) Notwithstanding the debt limitation prescribed in subsection (a) of this Section, in any case in which a public question for the issuance of bonds of a proposed school district maintaining grades kindergarten through 12 received at least 60% of the valid ballots cast on the question at an election held on or prior to November 8, 1994, and in which the bonds approved at such election have not been issued, the school district pursuant to the requirements of Section 11A-10 (now repealed) may issue the total amount of bonds approved at such election for the purpose stated in the question.

(d) Notwithstanding the debt limitation prescribed in subsection (a) of this Section, a school district that meets all the criteria set forth in paragraphs (1) and (2) of this subsection (d) may incur an additional indebtedness in an amount not to exceed $4,500,000, even though the amount of the additional indebtedness authorized by this subsection (d), when incurred and added to the aggregate amount of indebtedness of the district existing immediately prior to the district incurring the additional indebtedness authorized by this subsection (d), causes the aggregate indebtedness of the district to exceed the debt limitation otherwise applicable to that district under subsection (a):

(1) The additional indebtedness authorized by this subsection (d) is incurred by the school district through the issuance of bonds under and in accordance with Section 17-2.11a for the purpose of replacing a school building which, because of mine subsidence damage, has been closed as provided in paragraph (2) of this subsection (d) or through the issuance of bonds under and in accordance with Section 19-3 for the purpose of increasing the size of, or providing for additional functions in, such replacement school buildings, or both such purposes.

(2) The bonds issued by the school district as provided in paragraph (1) above are issued for the purposes of construction by the school district of a new school building pursuant to Section 17-2.11, to replace an existing school building that, because of mine subsidence damage, is closed as of the end of the 1992-93 school year pursuant to action of the regional superintendent of schools of the educational service region in which the district is located under Section 3-14.22 or are issued for the purpose of increasing the size of, or providing for additional functions in, the new school building being constructed to replace a school building closed as the result of mine subsidence damage, or both such purposes.

(e) (Blank).

(f) Notwithstanding the provisions of subsection (a) of this Section or of any other law, bonds in not to exceed the aggregate amount of $5,500,000 and issued by a school district meeting the following criteria shall not be considered indebtedness for purposes of any statutory limitation and may be issued in an amount or amounts, including existing indebtedness, in excess of any heretofore or hereafter imposed statutory limitation as to indebtedness:

(1) At the time of the sale of such bonds, the board of education of the district shall have determined by resolution that the enrollment of students in the district is projected to increase by not less than 7% during each of the next succeeding 2 school years.

(2) The board of education shall also determine by resolution that the improvements to be financed with the proceeds of the bonds are needed because of the projected enrollment increases.

(3) The board of education shall also determine by resolution that the projected increases in enrollment are the result of improvements made or expected to be made to passenger rail facilities located in the school district.

Notwithstanding the provisions of subsection (a) of this Section or of any other law, a school district that has availed itself of the provisions of this subsection (f) prior to July 22, 2004 (the effective date of Public Act 93-799) may also issue bonds approved by referendum up to an amount, including existing indebtedness, not exceeding 25% of the equalized assessed value of the taxable property in the district if all of the conditions set forth in items (1), (2), and (3) of this subsection (f) are met.

(g) Notwithstanding the provisions of subsection (a) of this Section or any other law, bonds in not to exceed an aggregate amount of 25% of the equalized assessed value of the taxable property of a school district and issued by a school district meeting the criteria in paragraphs (i) through (iv) of this

subsection shall not be considered indebtedness for purposes of any statutory limitation and may be issued pursuant to resolution of the school board in an amount or amounts, including existing indebtedness, in excess of any statutory limitation of indebtedness heretofore or hereafter imposed:

(i) The bonds are issued for the purpose of constructing a new high school building to replace two adjacent existing buildings which together house a single high school, each of which is more than 65 years old, and which together are located on more than 10 acres and less than 11 acres of property.

(ii) At the time the resolution authorizing the issuance of the bonds is adopted, the cost of constructing a new school building to replace the existing school building is less than 60% of the cost of repairing the existing school building.

(iii) The sale of the bonds occurs before July 1, 1997.

(iv) The school district issuing the bonds is a unit school district located in a county of less than 70,000 and more than 50,000 inhabitants, which has an average daily attendance of less than 1,500 and an equalized assessed valuation of less than $29,000,000.

(h) Notwithstanding any other provisions of this Section or the provisions of any other law, until January 1, 1998, a community unit school district maintaining grades K through 12 may issue bonds up to an amount, including existing indebtedness, not exceeding 27.6% of the equalized assessed value of the taxable property in the district, if all of the following conditions are met:

(i) The school district has an equalized assessed valuation for calendar year 1995 of less than $24,000,000;

(ii) The bonds are issued for the capital improvement, renovation, rehabilitation, or replacement of existing school buildings of the district, all of which buildings were originally constructed not less than 40 years ago;

(iii) The voters of the district approve a proposition for the issuance of the bonds at a referendum held after March 19, 1996; and

(iv) The bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(i) Notwithstanding any other provisions of this Section or the provisions of any other law, until January 1, 1998, a community unit school district maintaining grades K through 12 may issue bonds up to an amount, including existing indebtedness, not exceeding 27% of the equalized assessed value of the taxable property in the district, if all of the following conditions are met:

(i) The school district has an equalized assessed valuation for calendar year 1995 of less than $44,600,000;

(ii) The bonds are issued for the capital improvement, renovation, rehabilitation, or replacement of existing school buildings of the district, all of which existing buildings were originally constructed not less than 80 years ago;

(iii) The voters of the district approve a proposition for the issuance of the bonds at a referendum held after December 31, 1996; and

(iv) The bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(j) Notwithstanding any other provisions of this Section or the provisions of any other law, until January 1, 1999, a community unit school district maintaining grades K through 12 may issue bonds up to an amount, including existing indebtedness, not exceeding 27% of the equalized assessed value of the taxable property in the district if all of the following conditions are met:

(i) The school district has an equalized assessed valuation for calendar year 1995 of less than $140,000,000 and a best 3 months average daily attendance for the 1995-96 school year of at least 2,800;

(ii) The bonds are issued to purchase a site and build and equip a new high school, and the school district's existing high school was originally constructed not less than 35 years prior to the sale of the bonds;

(iii) At the time of the sale of the bonds, the board of education determines by resolution that a new high school is needed because of projected enrollment increases;

(iv) At least 60% of those voting in an election held after December 31, 1996 approve a proposition for the issuance of the bonds; and

(v) The bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(k) Notwithstanding the debt limitation prescribed in subsection (a) of this Section, a school district that meets all the criteria set forth in paragraphs (1) through (4) of this subsection (k) may issue bonds to incur an additional indebtedness in an amount not to exceed $4,000,000 even though the amount of the additional indebtedness authorized by this subsection (k), when incurred and added to the aggregate amount of indebtedness of the school district existing immediately prior to the school district incurring such additional indebtedness, causes the aggregate indebtedness of the school district to exceed or

increases the amount by which the aggregate indebtedness of the district already exceeds the debt limitation otherwise applicable to that school district under subsection (a):

(1) the school district is located in 2 counties, and a referendum to authorize the additional indebtedness was approved by a majority of the voters of the school district voting on the proposition to authorize that indebtedness;

(2) the additional indebtedness is for the purpose of financing a multi-purpose room addition to the existing high school;

(3) the additional indebtedness, together with the existing indebtedness of the school district, shall not exceed 17.4% of the value of the taxable property in the school district, to be ascertained by the last assessment for State and county taxes; and

(4) the bonds evidencing the additional indebtedness are issued, if at all, within 120 days of the effective date of this amendatory Act of 1998.

(l) Notwithstanding any other provisions of this Section or the provisions of any other law, until January 1, 2000, a school district maintaining grades kindergarten through 8 may issue bonds up to an amount, including existing indebtedness, not exceeding 15% of the equalized assessed value of the taxable property in the district if all of the following conditions are met:

(i) the district has an equalized assessed valuation for calendar year 1996 of less than $10,000,000;

(ii) the bonds are issued for capital improvement, renovation, rehabilitation, or replacement of one or more school buildings of the district, which buildings were originally constructed not less than 70 years ago;

(iii) the voters of the district approve a proposition for the issuance of the bonds at a referendum held on or after March 17, 1998; and

(iv) the bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(m) Notwithstanding any other provisions of this Section or the provisions of any other law, until January 1, 1999, an elementary school district maintaining grades K through 8 may issue bonds up to an amount, excluding existing indebtedness, not exceeding 18% of the equalized assessed value of the taxable property in the district, if all of the following conditions are met:

(i) The school district has an equalized assessed valuation for calendar year 1995 or less than $7,700,000;

(ii) The school district operates 2 elementary attendance centers that until 1976 were operated as the attendance centers of 2 separate and distinct school districts;

(iii) The bonds are issued for the construction of a new elementary school building to replace an existing multi-level elementary school building of the school district that is not handicapped accessible at all levels and parts of which were constructed more than 75 years ago;

(iv) The voters of the school district approve a proposition for the issuance of the bonds at a referendum held after July 1, 1998; and

(v) The bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(n) Notwithstanding the debt limitation prescribed in subsection (a) of this Section or any other provisions of this Section or of any other law, a school district that meets all of the criteria set forth in paragraphs (i) through (vi) of this subsection (n) may incur additional indebtedness by the issuance of bonds in an amount not exceeding the amount certified by the Capital Development Board to the school district as provided in paragraph (iii) of this subsection (n), even though the amount of the additional indebtedness so authorized, when incurred and added to the aggregate amount of indebtedness of the district existing immediately prior to the district incurring the additional indebtedness authorized by this subsection (n), causes the aggregate indebtedness of the district to exceed the debt limitation otherwise applicable by law to that district:

(i) The school district applies to the State Board of Education for a school construction project grant and submits a district facilities plan in support of its application pursuant to Section 5-20 of the School Construction Law.

(ii) The school district's application and facilities plan are approved by, and the district receives a grant entitlement for a school construction project issued by, the State Board of Education under the School Construction Law.

(iii) The school district has exhausted its bonding capacity or the unused bonding capacity of the district is less than the amount certified by the Capital Development Board to the district under Section 5-15 of the School Construction Law as the dollar amount of the school construction project's cost that the district will be required to finance with non-grant funds in order to receive a school construction project grant under the School Construction Law.

(iv) The bonds are issued for a "school construction project", as that term is defined

in Section 5-5 of the School Construction Law, in an amount that does not exceed the dollar amount certified, as provided in paragraph (iii) of this subsection (n), by the Capital Development Board to the school district under Section 5-15 of the School Construction Law.

(v) The voters of the district approve a proposition for the issuance of the bonds at a referendum held after the criteria specified in paragraphs (i) and (iii) of this subsection (n) are met.

(vi) The bonds are issued pursuant to Sections 19-2 through 19-7 of the School Code.

(o) Notwithstanding any other provisions of this Section or the provisions of any other law, until November 1, 2007, a community unit school district maintaining grades K through 12 may issue bonds up to an amount, including existing indebtedness, not exceeding 20% of the equalized assessed value of the taxable property in the district if all of the following conditions are met:

(i) the school district has an equalized assessed valuation for calendar year 2001 of at least $737,000,000 and an enrollment for the 2002-2003 school year of at least 8,500;

(ii) the bonds are issued to purchase school sites, build and equip a new high school, build and equip a new junior high school, build and equip 5 new elementary schools, and make technology and other improvements and additions to existing schools;

(iii) at the time of the sale of the bonds, the board of education determines by resolution that the sites and new or improved facilities are needed because of projected enrollment increases;

(iv) at least 57% of those voting in a general election held prior to January 1, 2003 approved a proposition for the issuance of the bonds; and

(v) the bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(p) Notwithstanding any other provisions of this Section or the provisions of any other law, a community unit school district maintaining grades K through 12 may issue bonds up to an amount, including indebtedness, not exceeding 27% of the equalized assessed value of the taxable property in the district if all of the following conditions are met:

(i) The school district has an equalized assessed valuation for calendar year 2001 of at least $295,741,187 and a best 3 months' average daily attendance for the 2002-2003 school year of at least 2,394.

(ii) The bonds are issued to build and equip 3 elementary school buildings; build and equip one middle school building; and alter, repair, improve, and equip all existing school buildings in the district.

(iii) At the time of the sale of the bonds, the board of education determines by resolution that the project is needed because of expanding growth in the school district and a projected enrollment increase.

(iv) The bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(p-5) Notwithstanding any other provisions of this Section or the provisions of any other law, bonds issued by a community unit school district maintaining grades K through 12 shall not be considered indebtedness for purposes of any statutory limitation and may be issued in an amount or amounts, including existing indebtedness, in excess of any heretofore or hereafter imposed statutory limitation as to indebtedness, if all of the following conditions are met:

(i) For each of the 4 most recent years, residential property comprises more than 80% of the equalized assessed valuation of the district.

(ii) At least 2 school buildings that were constructed 40 or more years prior to the issuance of the bonds will be demolished and will be replaced by new buildings or additions to one or more existing buildings.

(iii) Voters of the district approve a proposition for the issuance of the bonds at a regularly scheduled election.

(iv) At the time of the sale of the bonds, the school board determines by resolution that the new buildings or building additions are needed because of an increase in enrollment projected by the school board.

(v) The principal amount of the bonds, including existing indebtedness, does not exceed 25% of the equalized assessed value of the taxable property in the district.

(vi) The bonds are issued prior to January 1, 2007, pursuant to Sections 19-2 through 19-7 of this Code.

(p-10) Notwithstanding any other provisions of this Section or the provisions of any other law, bonds issued by a community consolidated school district maintaining grades K through 8 shall not be considered indebtedness for purposes of any statutory limitation and may be issued in an amount or amounts, including existing indebtedness, in excess of any heretofore or hereafter imposed statutory limitation as to indebtedness, if all of the following conditions are met:

(i) For each of the 4 most recent years, residential and farm property comprises more than 80% of the equalized assessed valuation of the district.

(ii) The bond proceeds are to be used to acquire and improve school sites and build and equip a school building.

(iii) Voters of the district approve a proposition for the issuance of the bonds at a regularly scheduled election.

(iv) At the time of the sale of the bonds, the school board determines by resolution that the school sites and building additions are needed because of an increase in enrollment projected by the school board.

(v) The principal amount of the bonds, including existing indebtedness, does not exceed 20% of the equalized assessed value of the taxable property in the district.

(vi) The bonds are issued prior to January 1, 2007, pursuant to Sections 19-2 through 19-7 of this Code.

(p-15) In addition to all other authority to issue bonds, the Oswego Community Unit School District Number 308 may issue bonds with an aggregate principal amount not to exceed $450,000,000, but only if all of the following conditions are met:

(i) The voters of the district have approved a proposition for the bond issue at the general election held on November 7, 2006.

(ii) At the time of the sale of the bonds, the school board determines, by resolution, that: (A) the building and equipping of the new high school building, new junior high school buildings, new elementary school buildings, early childhood building, maintenance building, transportation facility, and additions to existing school buildings, the altering, repairing, equipping, and provision of technology improvements to existing school buildings, and the acquisition and improvement of school sites, as the case may be, are required as a result of a projected increase in the enrollment of students in the district; and (B) the sale of bonds for these purposes is authorized by legislation that exempts the debt incurred on the bonds from the district's statutory debt limitation.

(iii) The bonds are issued, in one or more bond issues, on or before November 7, 2011, but the aggregate principal amount issued in all such bond issues combined must not exceed $450,000,000.

(iv) The bonds are issued in accordance with this Article 19.

(v) The proceeds of the bonds are used only to accomplish those projects approved by the voters at the general election held on November 7, 2006.

The debt incurred on any bonds issued under this subsection (p-15) shall not be considered indebtedness for purposes of any statutory debt limitation.

(p-20) In addition to all other authority to issue bonds, the Lincoln-Way Community High School District Number 210 may issue bonds with an aggregate principal amount not to exceed $225,000,000, but only if all of the following conditions are met:

(i) The voters of the district have approved a proposition for the bond issue at the general primary election held on March 21, 2006.

(ii) At the time of the sale of the bonds, the school board determines, by resolution, that: (A) the building and equipping of the new high school buildings, the altering, repairing, and equipping of existing school buildings, and the improvement of school sites, as the case may be, are required as a result of a projected increase in the enrollment of students in the district; and (B) the sale of bonds for these purposes is authorized by legislation that exempts the debt incurred on the bonds from the district's statutory debt limitation.

(iii) The bonds are issued, in one or more bond issues, on or before March 21, 2011, but the aggregate principal amount issued in all such bond issues combined must not exceed $225,000,000.

(iv) The bonds are issued in accordance with this Article 19.

(v) The proceeds of the bonds are used only to accomplish those projects approved by the voters at the primary election held on March 21, 2006.

The debt incurred on any bonds issued under this subsection (p-20) shall not be considered indebtedness for purposes of any statutory debt limitation.

(p-25) In addition to all other authority to issue bonds, Rochester Community Unit School District 3A may issue bonds with an aggregate principal amount not to exceed $15,000,000, but only if all of the following conditions are met:

(i) The voters of the district approve a proposition for the bond issuance at the general primary election held in 2008.

(ii) At the time of the sale of the bonds, the school board determines, by resolution,

that: (A) the building and equipping of a new high school building; the addition of classrooms and support facilities at the high school, middle school, and elementary school; the altering, repairing, and equipping of existing school buildings; and the improvement of school sites, as the case may be, are required as a result of a projected increase in the enrollment of students in the district; and (B) the sale of bonds for these purposes is authorized by a law that exempts the debt incurred on the bonds from the district's statutory debt limitation.

(iii) The bonds are issued, in one or more bond issues, on or before December 31, 2012, but the aggregate principal amount issued in all such bond issues combined must not exceed $15,000,000.

(iv) The bonds are issued in accordance with this Article 19.

(v) The proceeds of the bonds are used to accomplish only those projects approved by the voters at the primary election held in 2008.

The debt incurred on any bonds issued under this subsection (p-25) shall not be considered indebtedness for purposes of any statutory debt limitation.

(p-30) In addition to all other authority to issue bonds, Prairie Grove Consolidated School District 46 may issue bonds with an aggregate principal amount not to exceed $30,000,000, but only if all of the following conditions are met:

(i) The voters of the district approve a proposition for the bond issuance at an election held in 2008.

(ii) At the time of the sale of the bonds, the school board determines, by resolution, that (A) the building and equipping of a new school building and additions to existing school buildings are required as a result of a projected increase in the enrollment of students in the district and (B) the altering, repairing, and equipping of existing school buildings are required because of the age of the existing school buildings.

(iii) The bonds are issued, in one or more bond issuances, on or before December 31, 2012; however, the aggregate principal amount issued in all such bond issuances combined must not exceed $30,000,000.

(iv) The bonds are issued in accordance with this Article.

(v) The proceeds of the bonds are used to accomplish only those projects approved by the voters at an election held in 2008.

The debt incurred on any bonds issued under this subsection (p-30) shall not be considered indebtedness for purposes of any statutory debt limitation.

(p-35) In addition to all other authority to issue bonds, Prairie Hill Community Consolidated School District 133 may issue bonds with an aggregate principal amount not to exceed $13,900,000, but only if all of the following conditions are met:

(i) The voters of the district approved a proposition for the bond issuance at an election held on April 17, 2007.

(ii) At the time of the sale of the bonds, the school board determines, by resolution, that (A) the improvement of the site of and the building and equipping of a school building are required as a result of a projected increase in the enrollment of students in the district and (B) the repairing and equipping of the Prairie Hill Elementary School building is required because of the age of that school building.

(iii) The bonds are issued, in one or more bond issuances, on or before December 31, 2011, but the aggregate principal amount issued in all such bond issuances combined must not exceed $13,900,000.

(iv) The bonds are issued in accordance with this Article.

(v) The proceeds of the bonds are used to accomplish only those projects approved by the voters at an election held on April 17, 2007.

The debt incurred on any bonds issued under this subsection (p-35) shall not be considered indebtedness for purposes of any statutory debt limitation.

(p-40) In addition to all other authority to issue bonds, Mascoutah Community Unit District 19 may issue bonds with an aggregate principal amount not to exceed $55,000,000, but only if all of the following conditions are met:

(1) The voters of the district approve a proposition for the bond issuance at a regular election held on or after November 4, 2008.

(2) At the time of the sale of the bonds, the school board determines, by resolution, that (i) the building and equipping of a new high school building is required as a result of a projected increase in the enrollment of students in the district and the age and condition of the existing high school building, (ii) the existing high school building will be demolished, and (iii) the sale of bonds is authorized by statute

that exempts the debt incurred on the bonds from the district's statutory debt limitation.

(3) The bonds are issued, in one or more bond issuances, on or before December 31, 2011, but the aggregate principal amount issued in all such bond issuances combined must not exceed $55,000,000.

(4) The bonds are issued in accordance with this Article.

(5) The proceeds of the bonds are used to accomplish only those projects approved by the voters at a regular election held on or after November 4, 2008.

The debt incurred on any bonds issued under this subsection (p-40) shall not be considered indebtedness for purposes of any statutory debt limitation.

(q) A school district must notify the State Board of Education prior to issuing any form of long-term or short-term debt that will result in outstanding debt that exceeds 75% of the debt limit specified in this Section or any other provision of law.

(Source: P.A. 94-234, eff. 7-1-06; 94-721, eff. 1-6-06; 94-952, eff. 6-27-06; 94-1019, eff. 7-10-06; 94-1078, eff. 1-9-07; 95-331, eff. 8-21-07; 95-594, eff. 9-10-07.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Clayborne, **Senate Bill No. 848**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Viverito
Dahl	Jacobs	Pankau	Watson
DeLeo	Jones, J.	Peterson	Wilhelmi
Delgado	Koehler	Radogno	Mr. President
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Wilhelmi, **Senate Bill No. 878** was recalled from the order of third reading to the order of second reading.

Senator Wilhelmi offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 878

AMENDMENT NO. 1. Amend Senate Bill 878 by replacing everything after the enacting clause with the following:

"Section 5. The Renewable Energy, Energy Efficiency, and Coal Resources Development Law of 1997 is amended by changing Section 6-3 as follows:

(20 ILCS 687/6-3)

(Section scheduled to be repealed on December 12, 2015)

Sec. 6-3. Renewable energy resources program.

(a) The Department of Commerce and Economic Opportunity, to be called the "Department" hereinafter in this Law, shall administer the Renewable Energy Resources Program to provide grants, loans, and other incentives to foster investment in and the development and use of renewable energy resources.

(b) The Department shall establish eligibility criteria for grants, loans, and other incentives to foster investment in and the development and use of renewable energy resources. These criteria shall be reviewed annually and adjusted as necessary. The criteria should promote the goal of fostering investment in and the development and use, in Illinois, of renewable energy resources.

(c) The Department shall accept applications for grants, loans, and other incentives to foster investment in and the development and use of renewable energy resources.

(d) To the extent that funds are available and appropriated, the Department shall provide grants, loans, and other incentives to applicants that meet the criteria specified by the Department.

(e) The Department shall conduct an annual study on the use and availability of renewable energy resources in Illinois. Each year, the Department shall submit a report on the study to the General Assembly. This report shall include suggestions for legislation which will encourage the development and use of renewable energy resources.

(f) As used in this Law, "renewable energy resources" includes energy from wind, solar thermal energy, photovoltaic cells and panels, dedicated crops grown for energy production and organic waste biomass, hydropower that does not involve new construction or significant expansion of hydropower dams, and other such alternative sources of environmentally preferable energy. "Renewable energy resources" does not include, however, energy from the incineration~~,~~ or burning ~~or heating~~ of waste wood, tires, garbage, general household, institutional and commercial waste, industrial lunchroom or office waste, landscape waste, or construction or demolition debris.

(g) There is created the Energy Efficiency Investment Fund as a special fund in the State Treasury, to be administered by the Department to support the development of technologies for wind, biomass, and solar power in Illinois. The Department may accept private and public funds, including federal funds, for deposit into the Fund.

(Source: P.A. 94-793, eff. 5-19-06.)

Section 10. The Illinois Power Agency Act is amended by changing Section 1-10 as follows:

(20 ILCS 3855/1-10)

Sec. 1-10. Definitions.

"Agency" means the Illinois Power Agency.

"Agency loan agreement" means any agreement pursuant to which the Illinois Finance Authority agrees to loan the proceeds of revenue bonds issued with respect to a project to the Agency upon terms providing for loan repayment installments at least sufficient to pay when due all principal of, interest and premium, if any, on those revenue bonds, and providing for maintenance, insurance, and other matters in respect of the project.

"Authority" means the Illinois Finance Authority.

"Commission" means the Illinois Commerce Commission.

"Costs incurred in connection with the development and construction of a facility" means:

(1) the cost of acquisition of all real property and improvements in connection therewith and equipment and other property, rights, and easements acquired that are deemed necessary for the operation and maintenance of the facility;

(2) financing costs with respect to bonds, notes, and other evidences of indebtedness of the Agency;

(3) all origination, commitment, utilization, facility, placement, underwriting, syndication, credit enhancement, and rating agency fees;

(4) engineering, design, procurement, consulting, legal, accounting, title insurance, survey, appraisal, escrow, trustee, collateral agency, interest rate hedging, interest rate swap,

capitalized interest and other financing costs, and other expenses for professional services; and

(5) the costs of plans, specifications, site study and investigation, installation, surveys, other Agency costs and estimates of costs, and other expenses necessary or incidental to determining the feasibility of any project, together with such other expenses as may be necessary or incidental to the financing, insuring, acquisition, and construction of a specific project and placing that project in operation.

"Department" means the Department of Commerce and Economic Opportunity.

"Director" means the Director of the Illinois Power Agency.

"Demand-response" means measures that decrease peak electricity demand or shift demand from peak to off-peak periods.

"Energy efficiency" means measures that reduce the amount of electricity required to achieve a given end use.

"Electric utility" has the same definition as found in Section 16-102 of the Public Utilities Act.

"Facility" means an electric generating unit or a co-generating unit that produces electricity along with related equipment necessary to connect the facility to an electric transmission or distribution system.

"Governmental aggregator" means one or more units of local government that individually or collectively procure electricity to serve residential retail electrical loads located within its or their jurisdiction.

"Local government" means a unit of local government as defined in Article VII of Section 1 of the Illinois Constitution.

"Municipality" means a city, village, or incorporated town.

"Person" means any natural person, firm, partnership, corporation, either domestic or foreign, company, association, limited liability company, joint stock company, or association and includes any trustee, receiver, assignee, or personal representative thereof.

"Project" means the planning, bidding, and construction of a facility.

"Public utility" has the same definition as found in Section 3-105 of the Public Utilities Act.

"Real property" means any interest in land together with all structures, fixtures, and improvements thereon, including lands under water and riparian rights, any easements, covenants, licenses, leases, rights-of-way, uses, and other interests, together with any liens, judgments, mortgages, or other claims or security interests related to real property.

"Renewable energy credit" means a tradable credit that represents the environmental attributes of a certain amount of energy produced from a renewable energy resource.

"Renewable energy resources" includes energy and its associated renewable energy credit or renewable energy credits from wind, solar thermal energy, photovoltaic cells and panels, biodiesel, crops and untreated and unadulterated organic waste biomass, trees and tree trimmings, hydropower that does not involve new construction or significant expansion of hydropower dams, and other alternative sources of environmentally preferable energy. For purposes of this Act, landfill gas produced in the State is considered a renewable energy resource. "Renewable energy resources" does not include the incineration~~,~~ or burning ~~, or heating~~ of tires, garbage, general household, institutional, and commercial waste, industrial lunchroom or office waste, landscape waste other than trees and tree trimmings, railroad crossties, utility poles, or ~~and~~ construction or demolition debris, other than untreated and unadulterated waste wood.

"Revenue bond" means any bond, note, or other evidence of indebtedness issued by the Authority, the principal and interest of which is payable solely from revenues or income derived from any project or activity of the Agency.

"Total resource cost test" or "TRC test" means a standard that is met if, for an investment in energy efficiency or demand-response measures, the benefit-cost ratio is greater than one. The benefit-cost ratio is the ratio of the net present value of the total benefits of the program to the net present value of the total costs as calculated over the lifetime of the measures. A total resource cost test compares the sum of avoided electric utility costs, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures, to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side program, to quantify the net savings obtained by substituting the demand-side program for supply resources. In calculating avoided costs of power and energy that an electric utility would otherwise have had to acquire, reasonable estimates shall be included of financial costs likely to be imposed by future regulations and legislation on emissions of greenhouse gases.

(Source: P.A. 95-481, eff. 8-28-07.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Wilhelmi, **Senate Bill No. 878**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Viverito
Dahl	Jacobs	Pankau	Watson
DeLeo	Jones, J.	Peterson	Wilhelmi
Delgado	Koehler	Radogno	Mr. President
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILLS RECALLED

On motion of Senator Clayborne, **Senate Bill No. 879** was recalled from the order of third reading to the order of second reading.

Senator Clayborne offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 879

AMENDMENT NO. 1. Amend Senate Bill 879 by replacing everything after the enacting clause with the following:

"Section 5. The Public Utilities Act is amended by adding Section 21-1150 as follows:
(220 ILCS 5/21-1150 new)
Sec. 21-1150. Program carriage dispute resolution.
(a) For purposes of this Section:
"AAA" means the American Arbitration Association.
"Affiliated" with a cable operator means, with respect to a cable programming channel, that the channel is owned or operated by a person or entity (1) that is controlling, controlled by, or under common ownership or control with a cable operator, (2) in which any ownership interest, voting or non-voting, or any debt or other instrument that is convertible to an ownership interest, is held by a cable operator, or (3) in which any financial interest that enables a person or entity to benefit from the

financial performance of the cable programming channel is held by a cable operator.

"Cable operator" includes (1) any multichannel video programming distributor, as that term is defined at 47 U.S.C. 522, and (2) any affiliate or subsidiary of the cable operator or multichannel video programming distributor.

"Extended basic service" means a category of cable service provided by a cable operator that is immediately superior, in terms of price and number of channels, to an offering of basic cable service, as that term is defined at 47 U.S.C. 522.

"Final offer" means a submission in the form of (1) a contract for carriage of the programming for a period of at least 3 years, which is certified by the party making such final offer to reflect terms and conditions, other than price and carriage tier, actually agreed to by an unaffiliated third party in a carriage contract covering at least 100,000 homes, and (2) a related price and distribution tier based on such certified form of contract.

"Independent programmer" means a person (1) that is engaged in the production, creation, or wholesale distribution of video programming, and (2) that is not affiliated with a vertically integrated cable operator and (3) that offers a cable programming channel that competes in the same programming genre, or targets the same demographic or advertiser base, or competes to acquire the same programming as a cable programming channel owned by a vertically integrated cable operator.

"Programming genre" means a channel whose programming principally consists of the following:

(i) sports;

(ii) news and public affairs;

(iii) entertainment; or

(iv) any additional or more specific genre that the arbitrator may identify.

"Programming channel" means a channel with programming generally considered comparable in terms of signal quality and other features to programming provided by a television broadcast station or a widely available cable programming service, including, but not limited to, ESPN, TBS, TruTV, and E! Entertainment Television.

"Vertically integrated cable operator" means a cable system franchisee (1) to which more than 50% of the television households in its franchise area subscribe for video service, and (2) that, through one or more companies controlling, controlled by, or under common control with the cable system franchisee, acts as both a distributor of content, as well as a producer of content for its own and other cable systems. For purposes of clarification but not limitation, in a vertically integrated cable operator there is common direct or indirect ownership between the cable system franchisee and certain cable networks that are carried by the cable system franchisee.

(b) A vertically integrated cable operator that carries, on its extended basic service, a programming channel that it owns has a duty to treat, in a fair, reasonable, and nondiscriminatory manner, an independent programming channel that competes in the same programming genre with the programming channel that the vertically integrated cable operator owns.

(c) If an independent programmer whose programming channel is available in at least 100,000 homes within the United States has reason to believe that it has not been treated in a fair, reasonable, and nondiscriminatory manner by a vertically integrated cable operator concerning carriage of a competing programming channel, then it may submit a request for commercial arbitration with the vertically integrated cable operator over the terms and conditions of carriage within 90 days after a first-time request for carriage or renewal of a carriage agreement. If the dispute remains unresolved 10 days after submission of the request for arbitration, then either party may file with the AAA a formal demand for arbitration and shall include a final offer with the AAA filing. The AAA shall notify the other party of the demand for arbitration. Within 15 business days after receipt of that notice from the AAA, the other party shall submit its final offer to the AAA. Immediately after receipt of the responding party's final offer, the AAA shall provide to each party the other party's final offer.

(d) Arbitration proceedings shall be conducted in the following manner:

(1) The arbitration shall be decided by a single arbitrator under the expedited procedures of the commercial arbitration rules of the AAA that are in effect at the time of arbitration. The arbitrator shall conduct a baseball-style arbitration, in which the arbitrator shall choose the final offer of the party that most closely approximates the fair market value of and market demand for the programming carriage rights at issue.

(2) In order to determine fair market value and market demand, the arbitrator may consider any relevant evidence and may require the parties to submit, on a confidential basis, such evidence to the extent that it is in their actual possession or control, including, but not limited to, the following:

(A) current or previous contracts between the independent programmer and other cable operators in which the vertically integrated cable operator does and does not have an interest, as well as offers

made in such negotiations;

(B) current or previous contracts for the affiliated channel with other cable operators, including related and integrated carriage or other arrangements for the affiliated programming channel;

(C) price, terms, and conditions that the independent programmer has for carriage with other cable operators;

(D) evidence of the relative value, including without limitation ratings and advertising rates, of the independent programming compared to the affiliated programming channel being carried by the vertically integrated cable operator;

(E) the extent of national carriage of the independent programmer's competing cable programming;

(F) other evidence of the value of independent programming;

(G) whether the independent programmer and any company controlled by, controlling, or under common control by the vertically integrated cable operator have pursued the same programming from third parties in the past 5 years; and

The arbitrator may not consider offers prior to the arbitration made by the independent programmer or the vertically integrated cable operator in the course of their negotiations.

(e) A judgment upon an award by the arbitrator may be entered by any court having competent jurisdiction over the matter. If the arbitrator finds that one party's conduct during the course of the arbitration has been unreasonable, then the arbitrator may assess all or a portion of the other party's costs and expenses, including attorney fees, against the offending party.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Crotty, **Senate Bill No. 885** was recalled from the order of third reading to the order of second reading.

Senator Crotty offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 885

AMENDMENT NO. 1. Amend Senate Bill 885 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Optometric Practice Act of 1987 is amended by changing Section 3 as follows:

(225 ILCS 80/3) (from Ch. 111, par. 3903)

(Section scheduled to be repealed on January 1, 2017)

Sec. 3. Practice of optometry defined; referrals; manufacture of lenses and prisms.

(a) The practice of optometry is defined as the employment of any and all means for the examination, diagnosis, and treatment of the human visual system, the human eye, and its appendages without the use of surgery, including but not limited to: the appropriate use of ocular pharmaceutical agents; refraction and other determinants of visual function; prescribing corrective lenses or prisms; prescribing, dispensing, or management of contact lenses; vision therapy; visual rehabilitation; or any other procedures taught in schools and colleges of optometry approved by the Department, and not specifically restricted in this Act, subject to demonstrated competency and training as required by the Board, and pursuant to rule or regulation approved by the Board and adopted by the Department.

A person shall be deemed to be practicing optometry within the meaning of this Act who:

(1) In any way presents himself or herself to be qualified to practice optometry.

(2) Performs refractions or employs any other determinants of visual function.

(3) Employs any means for the adaptation of lenses or prisms.

(4) Prescribes corrective lenses, prisms, vision therapy, visual rehabilitation, or ocular pharmaceutical agents.

(5) Prescribes or manages contact lenses for refractive, cosmetic, or therapeutic purposes.

(6) Evaluates the need for, or prescribes, low vision aids to partially sighted persons.

(7) Diagnoses or treats any ocular abnormality, disease, or visual or muscular anomaly of the human eye or visual system.

(8) Practices, or offers or attempts to practice, optometry as defined in this Act

either on his or her own behalf or as an employee of a person, firm, or corporation, whether under the supervision of his or her employer or not.

Nothing in this Section shall be interpreted (i) to prevent a person from functioning as an assistant under the direct supervision of a person licensed by the State of Illinois to practice optometry or medicine in all of its branches or (ii) to prohibit visual screening programs that are conducted without a fee (other than voluntary donations), by charitable organizations acting in the public welfare under the supervision of a committee composed of persons licensed by the State of Illinois to practice optometry or persons licensed by the State of Illinois to practice medicine in all of its branches.

(b) When, in the course of providing optometric services to any person, an optometrist licensed under this Act finds an indication of a disease or condition of the eye which in his or her professional judgment requires professional service outside the scope of practice as defined in this Act, he or she shall refer such person to a physician licensed to practice medicine in all of its branches, or other appropriate health care practitioner. Nothing in this Act shall preclude an optometrist from rendering appropriate nonsurgical emergency care.

(c) Nothing contained in this Section shall prohibit a person from manufacturing ophthalmic lenses and prisms or the fabrication of contact lenses according to the specifications prescribed by an optometrist or a physician licensed to practice medicine in all of its branches, but shall specifically prohibit the sale or delivery of ophthalmic lenses, prisms, and contact lenses without a prescription signed by an optometrist or a physician licensed to practice medicine in all of its branches.

(d) Nothing in this Act shall restrict the filling of a prescription by a pharmacist licensed under the Pharmacy Practice Act.

(e) Nothing in this Act shall be construed to restrict the dispensing and sale by an optometrist of ocular devices, such as contact lenses, that contain and deliver ocular pharmaceutical agents permitted for use or prescription under this Act.

(Source: P.A. 94-787, eff. 5-19-06; 95-689, eff. 10-29-07.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Crotty, **Senate Bill No. 885**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Viverito
Dahl	Jacobs	Pankau	Watson
DeLeo	Jones, J.	Peterson	Wilhelmi
Delgado	Koehler	Radogno	Mr. President
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Crotty, **Senate Bill No. 993** was recalled from the order of third reading to the order of second reading.

Senator Crotty offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 993

AMENDMENT NO. 1. Amend Senate Bill 993 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Identification Card Act is amended by adding Section 11A as follows:

(15 ILCS 335/11A new)

Sec. 11A. Emergency contact database.

(a) The Secretary of State shall establish a database of the emergency contacts of persons who hold identification cards. Information in the database shall be accessible only to employees of the Office of the Secretary and law enforcement officers employed by a law enforcement agency.

(b) Any person holding an identification card shall be afforded the opportunity to provide the Secretary of State, in a manner and form designated by the Secretary of State, the name, address, telephone number, and relationship to the holder of no more than 2 emergency contact persons whom the holder wishes to be contacted by a law enforcement officer if the holder is involved in a motor vehicle accident or other emergency situation and the holder is unable to communicate with the contact person or persons. A contact person need not be the holder's next of kin.

(c) The Secretary shall adopt rules to implement this Section. At a minimum, the rules shall address all of the following:

(1) the method whereby a holder may provide the Secretary of State with emergency contact information;

(2) the method whereby a holder may provide the Secretary of State with a change to the emergency contact information; and

(3) any other aspect of the database or its operation that the Secretary determines is necessary to implement this Section.

(d) If a person involved in a motor vehicle accident or other emergency situation is unable to communicate with the contact person or persons specified in the database, a law enforcement officer shall make a good faith effort to notify the contact person or persons of the situation. Neither the law enforcement officer nor the law enforcement agency that employs that law enforcement officer incurs any liability, however, if the law enforcement officer is not able to make contact with the contact person.

(e) The Secretary of State shall make a good faith effort to maintain accurate data as provided by the identification card holder and to provide that information to law enforcement as provided in subsection (a). The Secretary of State is not liable for any damages, costs, or expenses, including, without limitation, consequential damages, arising or resulting from any inaccurate data or system unavailability.

Section 10. The Illinois Vehicle Code is amended by adding Section 6-117.2 as follows:

(625 ILCS 5/6-117.2 new)

Sec. 6-117.2. Emergency contact database.

(a) The Secretary of State shall establish a database of the emergency contacts of persons who hold a driver's license, instruction permit, or any other type of driving permit issued by the Secretary of State. Information in the database shall be accessible only to employees of the Office of the Secretary and law enforcement officers employed by a law enforcement agency.

(b) Any person holding a driver's license, instruction permit, or any other type of driving permit issued by the Secretary of State shall be afforded the opportunity to provide the Secretary of State, in a manner and form designated by the Secretary of State, the name, address, telephone number, and relationship to the holder of no more than 2 emergency contact persons whom the holder wishes to be contacted by a law enforcement officer if the holder is involved in a motor vehicle accident or other emergency situation and the holder is unable to communicate with the contact person or persons. A contact person

need not be the holder's next of kin.

(c) The Secretary shall adopt rules to implement this Section. At a minimum, the rules shall address all of the following:

(1) the method whereby a holder may provide the Secretary of State with emergency contact information;

(2) the method whereby a holder may provide the Secretary of State with a change to the emergency contact information; and

(3) any other aspect of the database or its operation that the Secretary determines is necessary to implement this Section.

(d) If a person involved in a motor vehicle accident or other emergency situation is unable to communicate with the contact person or persons specified in the database, a law enforcement officer shall make a good faith effort to notify the contact person or persons of the situation. Neither the law enforcement officer nor the law enforcement agency that employs that law enforcement officer incurs any liability, however, if the law enforcement officer is not able to make contact with the contact person.

(e) The Secretary of State shall make a good faith effort to maintain accurate data as provided by the driver's license or instruction permit holder and to provide that information to law enforcement as provided in subsection (a). The Secretary of State is not liable for any damages, costs, or expenses, including, without limitation, consequential damages, arising or resulting from any inaccurate data or system unavailability.

Section 99. Effective date. This Act takes effect July 1, 2009.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Crotty, **Senate Bill No. 993**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Viverito
Dahl	Jacobs	Pankau	Watson
DeLeo	Jones, J.	Peterson	Wilhelmi
Delgado	Koehler	Radogno	Mr. President
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Hunter, **Senate Bill No. 1938** was recalled from the order of third reading to the order of second reading.

Senator Hunter offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1938

AMENDMENT NO. 2. Amend Senate Bill 1938, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Public Aid Code is amended by adding Section 5-5.26 as follows:

(305 ILCS 5/5-5.26 new)

Sec. 5-5.26. Cost-reporting mechanism for child and adult psychiatric services.

(a) The General Assembly finds that direct access to psychiatric mental health services for children and adults suffering from mental illness will improve the quality of life for these individuals and will reduce health care costs by avoiding the need for more costly inpatient hospitalization. Thus, it is the intent of the General Assembly to develop policy aimed at ensuring that psychiatrists providing child and adult psychiatric services on an outpatient basis are adequately reimbursed for the cost of providing these services. Therefore, in order to determine the actual costs, the Department of Healthcare and Family Services shall develop a cost-reporting mechanism for service providers as defined in this Section by no later than January 1, 2009. The Department of Healthcare and Family Services shall consult with service providers as defined in this Section to assist with the development of the cost-reporting mechanism. By no later than March 1, 2009, the Department of Healthcare and Family Services shall report to the Governor and the General Assembly on the results of the cost-reporting mechanism. This report shall include, but need not be limited to, details on the development of the cost-reporting mechanism and its accurate reflection of the actual costs to service providers for providing child and adult psychiatric services. The Department of Healthcare and Family Services shall, subject to appropriation, establish a separate cost-based reimbursement rate based on the cost-reporting mechanism for psychiatrists who provide child and adult psychiatric services on an outpatient basis for service providers as defined by this Section.

(b) This Section applies only to psychiatrists who provide child and adult psychiatric services on an outpatient basis for service providers as defined in this Section.

(c) For purposes of this Section:

"Cost-based reimbursement rate" means a rate of reimbursement equal to the allowable and audited reasonable costs reported.

"Psychiatrist" means a psychiatrist as defined in Section 1-121 of the Mental Health and Developmental Disabilities Code.

"Service provider" means any of the following that demonstrates a combined Medicaid, poverty, and uninsured patient population penetration rate of 60% or greater:

(1) An entity certified by the Illinois Department of Human Services under the Medicaid Community Mental Health Services Program under 59 Ill. Adm. Code 132.

(2) A person, corporation, or entity that furnishes medical, educational, psychiatric, vocational, or rehabilitative services to a recipient under this Code and enters into a contract or agreement with one or more of the following State agencies to provide such services:

(A) The Department of Human Services.

(B) The Department of Children and Family Services.

(C) The Department of Corrections.

(D) The Department of Juvenile Justice.

(3) A community mental health board established under the Community Mental Health Act.

"Service provider" does not include an employee of a State agency or county agency.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Hunter, **Senate Bill No. 1938**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Viverito
Dahl	Jacobs	Pankau	Watson
DeLeo	Jones, J.	Peterson	Wilhelmi
Delgado	Koehler	Radogno	Mr. President
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Clayborne, **Senate Bill No. 1958**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 39; Nays 17; Present 2.

The following voted in the affirmative:

Bomke	Frerichs	Kotowski	Sandoval
Bond	Garrett	Lightford	Schoenberg
Clayborne	Haine	Link	Silverstein
Collins	Harmon	Maloney	Steans
Crotty	Hendon	Martinez	Sullivan
Cullerton	Holmes	Meeks	Trotter
DeLeo	Hunter	Munoz	Viverito
Delgado	Jacobs	Noland	Wilhelmi
Demuzio	Jones, J.	Raoul	Mr. President
Forby	Koehler	Risinger	

The following voted in the negative:

Althoff	Hultgren	Pankau	Syverson
Brady	Lauzen	Peterson	Watson

Burzynski	Luechtefeld	Radogno
Cronin	Millner	Righter
Dahl	Murphy	Rutherford

The following voted present:

Bivins
Dillard

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Clayborne, **Senate Bill No. 1959**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 40; Nays 16; Present 3.

The following voted in the affirmative:

Bomke	Frerichs	Link	Silverstein
Bond	Garrett	Maloney	Steans
Clayborne	Haine	Martinez	Sullivan
Collins	Harmon	Meeks	Trotter
Crotty	Hendon	Munoz	Viverito
Cullerton	Holmes	Noland	Wilhelmi
DeLeo	Hunter	Pankau	Mr. President
Delgado	Jacobs	Peterson	
Demuzio	Jones, J.	Raoul	
Dillard	Koehler	Sandoval	
Forby	Kotowski	Schoenberg	

The following voted in the negative:

Althoff	Hultgren	Radogno	Watson
Brady	Lauzen	Righter	
Burzynski	Luechtefeld	Risinger	
Cronin	Millner	Rutherford	
Dahl	Murphy	Syverson	

The following voted present:

Bivins
Halvorson
Lightford

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Clayborne, **Senate Bill No. 1960**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 37; Nays 16; Present 3.

The following voted in the affirmative:

Althoff	Forby	Kotowski	Silverstein
Bomke	Frerichs	Link	Steans
Bond	Garrett	Maloney	Sullivan
Clayborne	Haine	Martinez	Trotter
Collins	Harmon	Meeks	Viverito
Crotty	Hendon	Munoz	Wilhelmi
Cullerton	Holmes	Noland	Mr. President
DeLeo	Hunter	Peterson	
Delgado	Jacobs	Raoul	
Demuzio	Koehler	Schoenberg	

The following voted in the negative:

Brady	Jones, J.	Radogno	Watson
Burzynski	Lauzen	Righter	
Cronin	Millner	Risinger	
Dahl	Murphy	Rutherford	
Hultgren	Pankau	Syverson	

The following voted present:

Bivins
Dillard
Lightford

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Raoul, **Senate Bill No. 1985** was recalled from the order of third reading to the order of second reading.

Senator Raoul offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1985

AMENDMENT NO. _2__. Amend Senate Bill 1985, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Pension Code is amended by changing Sections 14-119, and 14-121 as follows:

(40 ILCS 5/14-119) (from Ch. 108 1/2, par. 14-119)

Sec. 14-119. Amount of widow's annuity.

(a) The widow's annuity shall be 50% of the amount of retirement annuity payable to the member on the date of death while on retirement if an annuitant, or on the date of his death while in service if an employee, regardless of his age on such date, or on the date of withdrawal if death occurred after termination of service under the conditions prescribed in the preceding Section.

(b) If an eligible widow, regardless of age, has in her care any unmarried child or children of the member under age 18 (under age 22 if a full-time student), the widow's annuity shall be increased in the amount of 5% of the retirement annuity for each such child, but the combined payments for a widow and

children shall not exceed 66 2/3% of the member's earned retirement annuity.

The amount of retirement annuity from which the widow's annuity is derived shall be that earned by the member without regard to whether he attained age 60 prior to his withdrawal under the conditions stated or prior to his death.

(c) Marriage of a child shall render the child ineligible for further consideration in the increase in the amount of the widow's annuity.

Attainment of age 18 (age 22 if a full-time student) shall render a child ineligible for further consideration in the increase of the widow's annuity, but the annuity to the widow shall be continued thereafter, without regard to her age at that time.

(d) Except as otherwise provided in this subsection (d), a ~~A~~ widow's annuity payable on account of any covered employee who has ~~shall have~~ been a covered employee for at least 18 months shall be reduced by 1/2 of the amount of survivors benefits to which his beneficiaries are eligible under the provisions of the Federal Social Security Act, except that (1) the amount of any widow's annuity payable under this Article shall not be reduced by reason of any increase under that Act which occurs after the offset required by this subsection is first applied to that annuity, and (2) for benefits granted on or after January 1, 1992, the offset under this subsection (d) shall not exceed 50% of the amount of widow's annuity otherwise payable.

Beginning July 1, 2009, the offset under this subsection (d) shall no longer be applied to any widow's annuity of any person who began receiving retirement benefits or a widow's annuity prior to January 1, 1998.

Beginning July 1, 2009, the offset under this subsection (d) shall no longer be applied to the widow's annuity of any person who began receiving a widow's annuity on or after January 1, 1998 and before the effective date of this amendatory Act of the 95th General Assembly.

Any person who began receiving retirement benefits after January 1, 1998 and before the effective date of this amendatory Act of the 95th General Assembly may, during a one-time election period established by the System, elect to reduce his or her retirement annuity by 1% in exchange for not having the offset under this subsection (d) applied to his or her widow's annuity.

Any employee in service on the effective date of this amendatory Act of the 95th General Assembly may, at the time of retirement, elect to reduce his or her retirement annuity by 1% in exchange for not having the offset under this subsection (d) applied to his or her widow's annuity.

If a widow's annuity is payable to the widow of an employee based on the employee's death in service, then the offset under this subsection (d) shall no longer applied to the widow's annuity.

(e) Upon the death of a recipient of a widow's annuity the excess, if any, of the member's accumulated contributions plus credited interest over all annuity payments to the member and widow, exclusive of the $500 lump sum payment, shall be paid to the named beneficiary of the widow, or if none has been named, to the estate of the widow, provided no reversionary annuity is payable.

(f) On January 1, 1981, any recipient of a widow's annuity who was receiving a widow's annuity on or before January 1, 1971, shall have her widow's annuity then being paid increased by 1% for each full year which has elapsed from the date the widow's annuity began. On January 1, 1982, any recipient of a widow's annuity who began receiving a widow's annuity after January 1, 1971, but before January 1, 1981, shall have her widow's annuity then being paid increased by 1% for each full year which has elapsed from the date the widow's annuity began. On January 1, 1987, any recipient of a widow's annuity who began receiving the widow's annuity on or before January 1, 1977, shall have the monthly widow's annuity increased by $1 for each full year which has elapsed since the date the annuity began.

(g) Beginning January 1, 1990, every widow's annuity shall be increased (1) on each January 1 occurring on or after the commencement of the annuity if the deceased member died while receiving a retirement annuity, or (2) in other cases, on each January 1 occurring on or after the first anniversary of the commencement of the annuity, by an amount equal to 3% of the current amount of the annuity, including any previous increases under this Article. Such increases shall apply without regard to whether the deceased member was in service on or after the effective date of Public Act 86-1488, but shall not accrue for any period prior to January 1, 1990.

(Source: P.A. 95-279, eff. 1-1-08.)

(40 ILCS 5/14-121) (from Ch. 108 1/2, par. 14-121)

Sec. 14-121. Amount of survivors annuity. A survivors annuity beneficiary shall be entitled upon death of the member to a single sum payment of $1,000, payable pro rata among all persons entitled thereto, together with a survivors annuity payable at the rates and under the conditions specified in this Article.

(a) If the survivors annuity beneficiary is a spouse, the survivors annuity shall be 30% of final average compensation subject to a maximum payment of $400 per month.

(b) If an eligible child or children under the care of a spouse also survives the member, such spouse as natural guardian of the child or children shall receive, in addition to the foregoing annuity, 20% of final average compensation on account of each such child and 10% of final average compensation divided pro rata among such children, subject to a maximum payment on account of all survivor annuity beneficiaries of $600 per month, or 80% of the member's final average compensation, whichever is the lesser.

(c) If the survivors annuity beneficiary or beneficiaries consists of an unmarried child or children, the amount of survivors annuity shall be 20% of final average compensation to each child, and 10% of final average compensation divided pro rata among all such children entitled to such annuity, subject to a maximum payment to all children combined of $600 per month or 80% of the member's final average compensation, whichever is the lesser.

(d) If the survivors annuity beneficiary is one or more dependent parents, the annuity shall be 20% of final average compensation to each parent and 10% of final average compensation divided pro rata among the parents who qualify for this annuity, subject to a maximum payment to both dependent parents of $400 per month.

(e) The survivors annuity to the spouse, children or dependent parents of a member whose death occurs after the date of last withdrawal, or after retirement, or while in service following reentry into service after retirement but before completing 1 1/2 years of additional creditable service, shall not exceed the lesser of 80% of the member's earned retirement annuity at the date of death or the maximum previously established in this Section.

(f) In applying the limitation prescribed on the combined payments to 2 or more survivors annuity beneficiaries, the annuity on account of each beneficiary shall be reduced pro rata until such time as the number of beneficiaries makes the reduction no longer applicable.

(g) Except as otherwise provided in this subsection (g), a survivors annuity payable on account of any covered employee who has ~~shall have~~ been a covered employee for at least 18 months at date of death or last withdrawal, whichever is the later, shall be reduced by 1/2 of the survivors benefits to which his beneficiaries are eligible under the federal Social Security Act, except that (1) the survivors annuity payable under this Article shall not be reduced by any increase under that Act which occurs after the offset required by this subsection is first applied to that annuity, (2) for benefits granted on or after January 1, 1992, the offset under this subsection (g) shall not exceed 50% of the amount of survivors annuity otherwise payable.

Beginning July 1, 2009, the offset under this subsection (g) shall no longer be applied to any survivors annuity of any person who began receiving retirement benefits or a survivors annuity prior to January 1, 1998.

Beginning July 1, 2009, the offset under this subsection (g) shall no longer be applied to the survivors annuity of any person who began receiving a survivors annuity on or after January 1, 1998 and before the effective date of this amendatory Act of the 95th General Assembly.

Any person who began receiving retirement benefits after January 1, 1998 and before the effective date of this amendatory Act of the 95th General Assembly may, during a one-time election period established by the System, elect to reduce his or her retirement annuity by 1% in exchange for not having the offset under this subsection (g) applied to his or her survivors annuity.

Any employee in service on the effective date of this amendatory Act of the 95th General Assembly may, at the time of retirement, elect to reduce his or her retirement annuity by 1% in exchange for not having the offset under this subsection (g) applied to his or her survivors annuity.

If a survivors annuity is payable to the widow of an employee based on the employee's death in service, then the offset under this subsection (g) shall no longer applied to the survivors annuity.

(h) The minimum payment to a beneficiary hereunder shall be $60 per month, which shall be reduced in accordance with the limitation prescribed on the combined payments to all beneficiaries of a member.

(i) Subject to the conditions set forth in Section 14-120, the minimum total survivors annuity benefit payable to the survivors annuity beneficiaries of a deceased member or annuitant whose death occurs on or after January 1, 1984, shall be 50% of the amount of retirement annuity that was or would have been payable to the deceased on the date of death, regardless of the age of the deceased on such date. If the minimum total benefit provided by this subsection exceeds the maximum otherwise imposed by this Section, the minimum total benefit shall nevertheless be payable. Any increase in the total survivors annuity benefit resulting from the operation of this subsection shall be divided among the survivors annuity beneficiaries of the deceased in proportion to their shares of the total survivors annuity benefit otherwise payable under this Section.

(j) Any survivors annuity beneficiary whose annuity terminates due to any condition specified in this Article other than death shall be entitled to a refund of the excess, if any, of the accumulated

contributions of the member plus credited interest over all payments to the member and beneficiary or beneficiaries, exclusive of the single sum payment of $1,000, provided no future survivors or reversionary annuity benefits are payable.

(k) Upon the death of the last eligible recipient of a survivors annuity the excess, if any, of the member's accumulated contributions plus credited interest over all annuity payments to the member and survivors exclusive of the single sum payment of $1000, shall be paid to the named beneficiary of the last eligible survivor, or if none has been named, to the estate of the last eligible survivor, provided no reversionary annuity is payable.

(l) On January 1, 1981, any survivor who was receiving a survivors annuity on or before January 1, 1971, shall have his survivors annuity then being paid increased by 1% for each full year which has elapsed from the date the annuity began. On January 1, 1982, any survivor who began receiving a survivor's annuity after January 1, 1971, but before January 1, 1981, shall have his survivor's annuity then being paid increased by 1% for each full year that has elapsed from the date the annuity began. On January 1, 1987, any survivor who began receiving a survivor's annuity on or before January 1, 1977, shall have the monthly survivor's annuity increased by $1 for each full year which has elapsed since the date the survivor's annuity began.

(m) Beginning January 1, 1990, every survivor's annuity shall be increased (1) on each January 1 occurring on or after the commencement of the annuity if the deceased member died while receiving a retirement annuity, or (2) in other cases, on each January 1 occurring on or after the first anniversary of the commencement of the annuity, by an amount equal to 3% of the current amount of the annuity, including any previous increases under this Article. Such increases shall apply without regard to whether the deceased member was in service on or after the effective date of Public Act 86-1488, but shall not accrue for any period prior to January 1, 1990.

(Source: P.A. 86-273; 86-1488; 87-794.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Raoul, **Senate Bill No. 1985**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 56; Nays 1; Present 1.

The following voted in the affirmative:

Althoff	Dillard	Lightford	Rutherford
Bivins	Forby	Link	Sandoval
Bomke	Frerichs	Luechtefeld	Schoenberg
Bond	Garrett	Maloney	Silverstein
Brady	Haine	Martinez	Steans
Burzynski	Halvorson	Meeks	Sullivan
Clayborne	Harmon	Millner	Trotter
Collins	Hendon	Munoz	Viverito
Cronin	Holmes	Murphy	Watson
Crotty	Hultgren	Noland	Wilhelmi
Cullerton	Hunter	Pankau	Mr. President
Dahl	Jacobs	Peterson	
DeLeo	Jones, J.	Radogno	
Delgado	Koehler	Raoul	
Demuzio	Kotowski	Righter	

The following voted in the negative:

Lauzen

The following voted present:

Risinger

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Haine, **Senate Bill No. 2002** was recalled from the order of third reading to the order of second reading.

Senator Haine offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2002

AMENDMENT NO. _2__. Amend Senate Bill 2002, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The State Employees Group Insurance Act of 1971 is amended by changing Section 10 as follows:

(5 ILCS 375/10) (from Ch. 127, par. 530)

Sec. 10. Payments by State; premiums.

(a) The State shall pay the cost of basic non-contributory group life insurance and, subject to member paid contributions set by the Department or required by this Section, the basic program of group health benefits on each eligible member, except a member, not otherwise covered by this Act, who has retired as a participating member under Article 2 of the Illinois Pension Code but is ineligible for the retirement annuity under Section 2-119 of the Illinois Pension Code, and part of each eligible member's and retired member's premiums for health insurance coverage for enrolled dependents as provided by Section 9. The State shall pay the cost of the basic program of group health benefits only after benefits are reduced by the amount of benefits covered by Medicare for all members and dependents who are eligible for benefits under Social Security or the Railroad Retirement system or who had sufficient Medicare-covered government employment, except that such reduction in benefits shall apply only to those members and dependents who (1) first become eligible for such Medicare coverage on or after July 1, 1992; or (2) are Medicare-eligible members or dependents of a local government unit which began participation in the program on or after July 1, 1992; or (3) remain eligible for, but no longer receive Medicare coverage which they had been receiving on or after July 1, 1992. The Department may determine the aggregate level of the State's contribution on the basis of actual cost of medical services adjusted for age, sex or geographic or other demographic characteristics which affect the costs of such programs.

The cost of participation in the basic program of group health benefits for the dependent or survivor of a living or deceased retired employee who was formerly employed by the University of Illinois in the Cooperative Extension Service and would be an annuitant but for the fact that he or she was made ineligible to participate in the State Universities Retirement System by clause (4) of subsection (a) of Section 15-107 of the Illinois Pension Code shall not be greater than the cost of participation that would otherwise apply to that dependent or survivor if he or she were the dependent or survivor of an annuitant under the State Universities Retirement System.

(a-1) Beginning January 1, 1998, for each person who becomes a new SERS annuitant and participates in the basic program of group health benefits, the State shall contribute toward the cost of the annuitant's coverage under the basic program of group health benefits an amount equal to 5% of that cost for each full year of creditable service upon which the annuitant's retirement annuity is based, up to a maximum of 100% for an annuitant with 20 or more years of creditable service. The remainder of the cost of a new SERS annuitant's coverage under the basic program of group health benefits shall be the

responsibility of the annuitant. In the case of a new SERS annuitant who has elected to receive an alternative retirement cancellation payment under Section 14-108.5 of the Illinois Pension Code in lieu of an annuity, for the purposes of this subsection the annuitant shall be deemed to be receiving a retirement annuity based on the number of years of creditable service that the annuitant had established at the time of his or her termination of service under SERS.

(a-2) Beginning January 1, 1998, for each person who becomes a new SERS survivor and participates in the basic program of group health benefits, the State shall contribute toward the cost of the survivor's coverage under the basic program of group health benefits an amount equal to 5% of that cost for each full year of the deceased employee's or deceased annuitant's creditable service in the State Employees' Retirement System of Illinois on the date of death, up to a maximum of 100% for a survivor of an employee or annuitant with 20 or more years of creditable service. The remainder of the cost of the new SERS survivor's coverage under the basic program of group health benefits shall be the responsibility of the survivor. In the case of a new SERS survivor who was the dependent of an annuitant who elected to receive an alternative retirement cancellation payment under Section 14-108.5 of the Illinois Pension Code in lieu of an annuity, for the purposes of this subsection the deceased annuitant's creditable service shall be determined as of the date of termination of service rather than the date of death.

(a-3) Beginning January 1, 1998, for each person who becomes a new SURS annuitant and participates in the basic program of group health benefits, the State shall contribute toward the cost of the annuitant's coverage under the basic program of group health benefits an amount equal to 5% of that cost for each full year of creditable service upon which the annuitant's retirement annuity is based, up to a maximum of 100% for an annuitant with 20 or more years of creditable service. The remainder of the cost of a new SURS annuitant's coverage under the basic program of group health benefits shall be the responsibility of the annuitant.

(a-4) (Blank).

(a-5) Beginning January 1, 1998, for each person who becomes a new SURS survivor and participates in the basic program of group health benefits, the State shall contribute toward the cost of the survivor's coverage under the basic program of group health benefits an amount equal to 5% of that cost for each full year of the deceased employee's or deceased annuitant's creditable service in the State Universities Retirement System on the date of death, up to a maximum of 100% for a survivor of an employee or annuitant with 20 or more years of creditable service. The remainder of the cost of the new SURS survivor's coverage under the basic program of group health benefits shall be the responsibility of the survivor.

(a-6) Beginning July 1, 1998, for each person who becomes a new TRS State annuitant and participates in the basic program of group health benefits, the State shall contribute toward the cost of the annuitant's coverage under the basic program of group health benefits an amount equal to 5% of that cost for each full year of creditable service as a teacher as defined in paragraph (2), (3), or (5) of Section 16-106 of the Illinois Pension Code upon which the annuitant's retirement annuity is based, up to a maximum of 100%; except that the State contribution shall be 12.5% per year (rather than 5%) for each full year of creditable service as a regional superintendent or assistant regional superintendent of schools. The remainder of the cost of a new TRS State annuitant's coverage under the basic program of group health benefits shall be the responsibility of the annuitant.

(a-7) Beginning July 1, 1998, for each person who becomes a new TRS State survivor and participates in the basic program of group health benefits, the State shall contribute toward the cost of the survivor's coverage under the basic program of group health benefits an amount equal to 5% of that cost for each full year of the deceased employee's or deceased annuitant's creditable service as a teacher as defined in paragraph (2), (3), or (5) of Section 16-106 of the Illinois Pension Code on the date of death, up to a maximum of 100%; except that the State contribution shall be 12.5% per year (rather than 5%) for each full year of the deceased employee's or deceased annuitant's creditable service as a regional superintendent or assistant regional superintendent of schools. The remainder of the cost of the new TRS State survivor's coverage under the basic program of group health benefits shall be the responsibility of the survivor.

(a-8) A new SERS annuitant, new SERS survivor, new SURS annuitant, new SURS survivor, new TRS State annuitant, or new TRS State survivor may waive or terminate coverage in the program of group health benefits. Any such annuitant or survivor who has waived or terminated coverage may enroll or re-enroll in the program of group health benefits only during the annual benefit choice period, as determined by the Director; except that in the event of termination of coverage due to nonpayment of premiums, the annuitant or survivor may not re-enroll in the program.

(a-9) No later than May 1 of each calendar year, the Director of Central Management Services shall certify in writing to the Executive Secretary of the State Employees' Retirement System of Illinois the

amounts of the Medicare supplement health care premiums and the amounts of the health care premiums for all other retirees who are not Medicare eligible.

A separate calculation of the premiums based upon the actual cost of each health care plan shall be so certified.

The Director of Central Management Services shall provide to the Executive Secretary of the State Employees' Retirement System of Illinois such information, statistics, and other data as he or she may require to review the premium amounts certified by the Director of Central Management Services.

The Department of Healthcare and Family Services, or any successor agency designated to procure healthcare contracts pursuant to this Act, is authorized to establish funds, separate accounts provided by any bank or banks as defined by the Illinois Banking Act, or separate accounts provided by any savings and loan association or associations as defined by the Illinois Savings and Loan Act of 1985 to be held by the Director, outside the State treasury, for the purpose of receiving the transfer of moneys from the Local Government Health Insurance Reserve Fund. The Department may promulgate rules further defining the methodology for the transfers. Any interest earned by moneys in the funds or accounts shall inure to the Local Government Health Insurance Reserve Fund. The transferred moneys, and interest accrued thereon, shall be used exclusively for transfers to administrative service organizations or their financial institutions for payments of claims to claimants and providers under the self-insurance health plan. The transferred moneys, and interest accrued thereon, shall not be used for any other purpose including, but not limited to, reimbursement of administration fees due the administrative service organization pursuant to its contract or contracts with the Department.

(b) State employees who become eligible for this program on or after January 1, 1980 in positions normally requiring actual performance of duty not less than 1/2 of a normal work period but not equal to that of a normal work period, shall be given the option of participating in the available program. If the employee elects coverage, the State shall contribute on behalf of such employee to the cost of the employee's benefit and any applicable dependent supplement, that sum which bears the same percentage as that percentage of time the employee regularly works when compared to normal work period.

(c) The basic non-contributory coverage from the basic program of group health benefits shall be continued for each employee not in pay status or on active service by reason of (1) leave of absence due to illness or injury, (2) authorized educational leave of absence or sabbatical leave, or (3) military leave with pay and benefits. This coverage shall continue until expiration of authorized leave and return to active service, but not to exceed 24 months for leaves under item (1) or (2). This 24-month limitation and the requirement of returning to active service shall not apply to persons receiving ordinary or accidental disability benefits or retirement benefits through the appropriate State retirement system or benefits under the Workers' Compensation or Occupational Disease Act.

(d) The basic group life insurance coverage shall continue, with full State contribution, where such person is (1) absent from active service by reason of disability arising from any cause other than self-inflicted, (2) on authorized educational leave of absence or sabbatical leave, or (3) on military leave with pay and benefits.

(e) Where the person is in non-pay status for a period in excess of 30 days or on leave of absence, other than by reason of disability, educational or sabbatical leave, or military leave with pay and benefits, such person may continue coverage only by making personal payment equal to the amount normally contributed by the State on such person's behalf. Such payments and coverage may be continued: (1) until such time as the person returns to a status eligible for coverage at State expense, but not to exceed 24 months, (2) until such person's employment or annuitant status with the State is terminated, or (3) for a maximum period of 4 years for members on military leave with pay and benefits and military leave without pay and benefits (exclusive of any additional service imposed pursuant to law).

(f) The Department shall establish by rule the extent to which other employee benefits will continue for persons in non-pay status or who are not in active service.

(g) The State shall not pay the cost of the basic non-contributory group life insurance, program of health benefits and other employee benefits for members who are survivors as defined by paragraphs (1) and (2) of subsection (q) of Section 3 of this Act. The costs of benefits for these survivors shall be paid by the survivors or by the University of Illinois Cooperative Extension Service, or any combination thereof. However, the State shall pay the amount of the reduction in the cost of participation, if any, resulting from the amendment to subsection (a) made by this amendatory Act of the 91st General Assembly.

(h) Those persons occupying positions with any department as a result of emergency appointments pursuant to Section 8b.8 of the Personnel Code who are not considered employees under this Act shall be given the option of participating in the programs of group life insurance, health benefits and other

employee benefits. Such persons electing coverage may participate only by making payment equal to the amount normally contributed by the State for similarly situated employees. Such amounts shall be determined by the Director. Such payments and coverage may be continued until such time as the person becomes an employee pursuant to this Act or such person's appointment is terminated.

(i) Any unit of local government within the State of Illinois may apply to the Director to have its employees, annuitants, and their dependents provided group health coverage under this Act on a non-insured basis. To participate, a unit of local government must agree to enroll all of its employees, who may select coverage under either the State group health benefits plan or a health maintenance organization that has contracted with the State to be available as a health care provider for employees as defined in this Act. A unit of local government must remit the entire cost of providing coverage under the State group health benefits plan or, for coverage under a health maintenance organization, an amount determined by the Director based on an analysis of the sex, age, geographic location, or other relevant demographic variables for its employees, except that the unit of local government shall not be required to enroll those of its employees who are covered spouses or dependents under this plan or another group policy or plan providing health benefits as long as (1) an appropriate official from the unit of local government attests that each employee not enrolled is a covered spouse or dependent under this plan or another group policy or plan, and (2) at least 50% ~~85%~~ of the employees are enrolled and the unit of local government remits the entire cost of providing coverage to those employees, except that a participating school district must have enrolled at least 50% ~~85%~~ of its full-time employees who have not waived coverage under the district's group health plan by participating in a component of the district's cafeteria plan. A participating school district is not required to enroll a full-time employee who has waived coverage under the district's health plan, provided that an appropriate official from the participating school district attests that the full-time employee has waived coverage by participating in a component of the district's cafeteria plan. For the purposes of this subsection, "participating school district" includes a unit of local government whose primary purpose is education as defined by the Department's rules.

Employees of a participating unit of local government who are not enrolled due to coverage under another group health policy or plan may enroll in the event of a qualifying change in status, special enrollment, special circumstance as defined by the Director, or during the annual Benefit Choice Period. A participating unit of local government may also elect to cover its annuitants. Dependent coverage shall be offered on an optional basis, with the costs paid by the unit of local government, its employees, or some combination of the two as determined by the unit of local government. The unit of local government shall be responsible for timely collection and transmission of dependent premiums.

The Director shall annually determine monthly rates of payment, subject to the following constraints:

(1) In the first year of coverage, the rates shall be equal to the amount normally charged to State employees for elected optional coverages or for enrolled dependents coverages or other contributory coverages, or contributed by the State for basic insurance coverages on behalf of its employees, adjusted for differences between State employees and employees of the local government in age, sex, geographic location or other relevant demographic variables, plus an amount sufficient to pay for the additional administrative costs of providing coverage to employees of the unit of local government and their dependents.

(2) In subsequent years, a further adjustment shall be made to reflect the actual prior years' claims experience of the employees of the unit of local government.

In the case of coverage of local government employees under a health maintenance organization, the Director shall annually determine for each participating unit of local government the maximum monthly amount the unit may contribute toward that coverage, based on an analysis of (i) the age, sex, geographic location, and other relevant demographic variables of the unit's employees and (ii) the cost to cover those employees under the State group health benefits plan. The Director may similarly determine the maximum monthly amount each unit of local government may contribute toward coverage of its employees' dependents under a health maintenance organization.

Monthly payments by the unit of local government or its employees for group health benefits plan or health maintenance organization coverage shall be deposited in the Local Government Health Insurance Reserve Fund.

The Local Government Health Insurance Reserve Fund is hereby created as a nonappropriated trust fund to be held outside the State Treasury, with the State Treasurer as custodian. The Local Government Health Insurance Reserve Fund shall be a continuing fund not subject to fiscal year limitations. All revenues arising from the administration of the health benefits program established under this Section shall be deposited into the Local Government Health Insurance Reserve Fund. Any interest earned on moneys in the Local Government Health Insurance Reserve Fund shall be deposited into the Fund. All

expenditures from this Fund shall be used for payments for health care benefits for local government and rehabilitation facility employees, annuitants, and dependents, and to reimburse the Department or its administrative service organization for all expenses incurred in the administration of benefits. No other State funds may be used for these purposes.

A local government employer's participation or desire to participate in a program created under this subsection shall not limit that employer's duty to bargain with the representative of any collective bargaining unit of its employees.

(j) Any rehabilitation facility within the State of Illinois may apply to the Director to have its employees, annuitants, and their eligible dependents provided group health coverage under this Act on a non-insured basis. To participate, a rehabilitation facility must agree to enroll all of its employees and remit the entire cost of providing such coverage for its employees, except that the rehabilitation facility shall not be required to enroll those of its employees who are covered spouses or dependents under this plan or another group policy or plan providing health benefits as long as (1) an appropriate official from the rehabilitation facility attests that each employee not enrolled is a covered spouse or dependent under this plan or another group policy or plan, and (2) at least 50% ~~85%~~ of the employees are enrolled and the rehabilitation facility remits the entire cost of providing coverage to those employees. Employees of a participating rehabilitation facility who are not enrolled due to coverage under another group health policy or plan may enroll in the event of a qualifying change in status, special enrollment, special circumstance as defined by the Director, or during the annual Benefit Choice Period. A participating rehabilitation facility may also elect to cover its annuitants. Dependent coverage shall be offered on an optional basis, with the costs paid by the rehabilitation facility, its employees, or some combination of the 2 as determined by the rehabilitation facility. The rehabilitation facility shall be responsible for timely collection and transmission of dependent premiums.

The Director shall annually determine quarterly rates of payment, subject to the following constraints:

(1) In the first year of coverage, the rates shall be equal to the amount normally charged to State employees for elected optional coverages or for enrolled dependents coverages or other contributory coverages on behalf of its employees, adjusted for differences between State employees and employees of the rehabilitation facility in age, sex, geographic location or other relevant demographic variables, plus an amount sufficient to pay for the additional administrative costs of providing coverage to employees of the rehabilitation facility and their dependents.

(2) In subsequent years, a further adjustment shall be made to reflect the actual prior years' claims experience of the employees of the rehabilitation facility.

Monthly payments by the rehabilitation facility or its employees for group health benefits shall be deposited in the Local Government Health Insurance Reserve Fund.

(k) Any domestic violence shelter or service within the State of Illinois may apply to the Director to have its employees, annuitants, and their dependents provided group health coverage under this Act on a non-insured basis. To participate, a domestic violence shelter or service must agree to enroll all of its employees and pay the entire cost of providing such coverage for its employees. A participating domestic violence shelter may also elect to cover its annuitants. Dependent coverage shall be offered on an optional basis, with employees, or some combination of the 2 as determined by the domestic violence shelter or service. The domestic violence shelter or service shall be responsible for timely collection and transmission of dependent premiums.

The Director shall annually determine rates of payment, subject to the following constraints:

(1) In the first year of coverage, the rates shall be equal to the amount normally charged to State employees for elected optional coverages or for enrolled dependents coverages or other contributory coverages on behalf of its employees, adjusted for differences between State employees and employees of the domestic violence shelter or service in age, sex, geographic location or other relevant demographic variables, plus an amount sufficient to pay for the additional administrative costs of providing coverage to employees of the domestic violence shelter or service and their dependents.

(2) In subsequent years, a further adjustment shall be made to reflect the actual prior years' claims experience of the employees of the domestic violence shelter or service.

Monthly payments by the domestic violence shelter or service or its employees for group health insurance shall be deposited in the Local Government Health Insurance Reserve Fund.

(l) A public community college or entity organized pursuant to the Public Community College Act may apply to the Director initially to have only annuitants not covered prior to July 1, 1992 by the district's health plan provided health coverage under this Act on a non-insured basis. The community college must execute a 2-year contract to participate in the Local Government Health Plan. Any annuitant may enroll in the event of a qualifying change in status, special enrollment, special

circumstance as defined by the Director, or during the annual Benefit Choice Period.

The Director shall annually determine monthly rates of payment subject to the following constraints: for those community colleges with annuitants only enrolled, first year rates shall be equal to the average cost to cover claims for a State member adjusted for demographics, Medicare participation, and other factors; and in the second year, a further adjustment of rates shall be made to reflect the actual first year's claims experience of the covered annuitants.

(l-5) The provisions of subsection (l) become inoperative on July 1, 1999.

(m) The Director shall adopt any rules deemed necessary for implementation of this amendatory Act of 1989 (Public Act 86-978).

(n) Any child advocacy center within the State of Illinois may apply to the Director to have its employees, annuitants, and their dependents provided group health coverage under this Act on a non-insured basis. To participate, a child advocacy center must agree to enroll all of its employees and pay the entire cost of providing coverage for its employees. The child advocacy center shall not be required to enroll those of its employees who are covered spouses or dependents under the plan or another group policy or plan providing health benefits as long as (1) an appropriate official from the child advocacy center attests that each employee not enrolled is a covered spouse or dependent under this plan or another group policy or plan or (2) at least 50% of the employees are enrolled. A participating child advocacy center may also elect to cover its annuitants. Dependent coverage shall be offered on an optional basis, with the costs paid by the child advocacy center, its employees, or some combination of the 2 as determined by the child advocacy center. The child advocacy center shall be responsible for timely collection and transmission of dependent premiums.

The Director shall annually determine rates of payment, subject to the following constraints:

(1) In the first year of coverage, the rates shall be equal to the amount normally charged to State employees for elected optional coverages or for enrolled dependents coverages or other contributory coverages on behalf of its employees, adjusted for differences between State employees and employees of the child advocacy center in age, sex, geographic location, or other relevant demographic variables, plus an amount sufficient to pay for the additional administrative costs of providing coverage to employees of the child advocacy center and their dependents.

(2) In subsequent years, a further adjustment shall be made to reflect the actual prior years' claims experience of the employees of the child advocacy center.

Monthly payments by the child advocacy center or its employees for group health insurance shall be deposited into the Local Government Health Insurance Reserve Fund.

(Source: P.A. 94-839, eff. 6-6-06; 94-860, eff. 6-16-06; 95-331, eff. 8-21-07; 95-632, eff. 9-25-07; 95-707, eff. 1-11-08.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Haine, **Senate Bill No. 2002**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg

Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Viverito
Dahl	Jacobs	Pankau	Watson
DeLeo	Jones, J.	Peterson	Wilhelmi
Delgado	Koehler	Radogno	Mr. President
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Koehler, **Senate Bill No. 2033** was recalled from the order of third reading to the order of second reading.

Senate Floor Amendment No. 2 was held in the Committee on State Government and Veterans Affairs.

Senator Koehler offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2033

AMENDMENT NO. 3. Amend Senate Bill 2033, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 12, immediately below line 13, by inserting the following:

"Section 10. The County Economic Development Project Area Property Tax Allocation Act is amended by changing Sections 4 and 5 as follows:

(55 ILCS 85/4) (from Ch. 34, par. 7004)

Sec. 4. Establishment of economic development project area; ordinance; joint review board; notice; hearing; changes in economic development plan; annual reporting requirements. Economic development project areas shall be established as follows:

(a) The corporate authorities of Whiteside County may by ordinance propose the establishment of an economic development project area and fix a time and place for a public hearing, and shall submit a certified copy of the ordinance as adopted to the Department.

(a-5) After the effective date of this amendatory Act of the 93rd General Assembly, the corporate authorities of Stephenson County may by ordinance propose the establishment of an economic development project area and fix a time and place for a public hearing, and shall submit a certified copy of the ordinance as adopted to the Department.

(a-10) The corporate authorities of Grundy County may, by ordinance, propose the establishment of an economic development project and fix a time and place for a public hearing. Upon passage of the ordinance, the corporate authorities of Grundy County shall submit a certified copy of the ordinance, as adopted, to the Department.

(a-15) The corporate authorities of Peoria County may, by ordinance, propose the establishment of an economic development project and fix a time and place for a public hearing. Upon passage of the ordinance, the corporate authorities of Peoria County shall submit a certified copy of the ordinance, as adopted, to the Department.

(b) Any county which adopts an ordinance which fixes a date, time and place for a public hearing shall convene a joint review board as hereinafter provided. Not less than 45 days prior to the date fixed for the public hearing, the county shall give notice by mailing to the chief executive officer of each affected taxing district having taxable property included in the proposed economic development project area and, if the ordinance is adopted by Stephenson County, the chief executive officer of any municipality within Stephenson County having a population of more than 20,000 that such chief executive officer or his designee is invited to participate in a joint review board. The designee shall serve at the discretion of the chief executive officer of the taxing district for a term not to exceed 2 years. Such

notice shall advise each chief executive officer of the date, time and place of the first meeting of such joint review board, which shall occur not less than 30 days prior to the date of the public hearing. Such notice by mail shall be given by depositing such notice in the United States Postal Service by certified mail.

At or prior to the first meeting of such joint review board the county shall furnish to any member of such joint review board copies of the proposed economic development plan and any related documents which such member shall reasonably request. A majority of the members of such joint review board present at any meeting shall constitute a quorum. Additional meetings may be called by any member of a joint review board upon the giving of notice not less than 72 hours prior to the date of any additional meeting to all members of the joint review board. The joint review board shall review such information and material as its members reasonably deem relevant to the county's proposals to approve economic development plans and economic development projects and to designate economic development project areas. The county shall provide such information and material promptly upon the request of the joint review board and may also provide administrative support and facilities as the joint review board may reasonably require.

Within 30 days of its first meeting, a joint review board shall provide the county with a written report of its review of any proposal to approve an economic development plan and economic development project and to designate an economic development project area. Such written report shall include such information and advisory, nonbinding recommendations as a majority of the members of the joint review board shall deem relevant. Written reports of joint review boards may include information and advisory, nonbinding recommendations provided by a minority of the members thereof. Any joint review board which does not provide such written report within such 30-day period shall be deemed to have recommended that the county proceed with a proposal to approve an economic development plan and economic development project and to designate an economic development project area.

(c) Notice of the public hearing shall be given by publication and mailing.

(1) Notice by publication shall be given by publication at least twice, the first publication to be not more than 30 nor less than 10 days prior to the hearing in a newspaper of general circulation within the taxing districts having property in the proposed economic development project area. Notice by mailing shall be given by depositing such notice together with a copy of the proposed economic development plan in the United States Postal Service by certified mail addressed to the person or persons in whose name the general taxes for the last preceding year were paid on each lot, block, tract, or parcel of land lying within the proposed economic development project area. The notice shall be mailed not less than 10 days prior to the dates set for the public hearing. In the event taxes for the last preceding year were not paid, the notice shall also be sent to the persons last listed on the tax rolls within the preceding 3 years as the owners of the property.

(2) The notices issued pursuant to this Section shall include the following:

(A) The time and place of public hearing;

(B) The boundaries of the proposed economic development project area by legal description and by street location where possible;

(C) A notification that all interested persons will be given an opportunity to be heard at the public hearing;

(D) An invitation for any person to submit alternative proposals or bids for any proposed conveyance, lease, mortgage or other disposition of land within the proposed economic development project area;

(E) A description of the economic development plan or economic development project if a plan or project is a subject matter of the hearing; and

(F) Such other matters as the county may deem appropriate.

(3) Not less than 45 days prior to the date set for hearing, the county shall give notice by mail as provided in this subsection (c) to all taxing districts of which taxable property is included in the economic development project area, and to the Department. In addition to the other requirements under this subsection (c), the notice shall include an invitation to the Department and each taxing district to submit comments to the county concerning the subject matter of the hearing prior to the date of the hearing.

(d) At the public hearing any interested person, the Department or any affected taxing district may file written objections with the county clerk and may be heard orally with respect to any issues embodied in the notice. The county shall hear and determine all alternate proposals or bids for any proposed conveyance, lease, mortgage or other disposition of land and all protests and objections at the hearing, and the hearing may be adjourned to another date without further notice other than a motion to be entered upon the minutes fixing the time and place of the adjourned hearing. Public hearings with regard

to an economic development plan, economic development project area, or economic development project may be held simultaneously.

(e) At the public hearing, or at any time prior to the adoption by the county of an ordinance approving an economic development plan, the county may make changes in the economic development plan. Changes which (1) alter the exterior boundaries of the proposed economic development project area, (2) substantially affect the general land uses established in the proposed economic development plan, (3) substantially change the nature of the proposed economic development plan, (4) change the general description of any proposed developer, user or tenant of any property to be located or improved within the economic development project area, or (5) change the description of the type, class and number of employees to be employed in the operation of the facilities to be developed or improved within the economic development project area shall be made only after review by joint review board, notice and hearing pursuant to the procedures set forth in this Section. Changes which do not (1) alter the exterior boundaries of a proposed economic development project area, (2) substantially affect the general land uses established in the proposed plan, (3) substantially change the nature of the proposed economic development plan, (4) change the general description of any proposed developer, user or tenant of any property to be located or improved within the economic development project area, or (5) change the description of the type, class and number of employees to be employed in the operation of the facilities to be developed or improved within the economic development project area may be made without further notice or hearing, provided that the county shall give notice of its changes by mail to the Department and to each affected taxing district and by publication in a newspaper or newspapers of general circulation with the affected taxing districts. Such notice by mail and by publication shall each occur not later than 10 days following the adoption by ordinance of such changes.

(f) At any time within 90 days of the final adjournment of the public hearing, a county may, by ordinance, approve the economic development plan, establish the economic development project area, and authorize property tax allocation financing for such economic development project area.

Any ordinance adopted by Whiteside County which approves the economic development plan shall contain findings that the economic development project is reasonably expected to create or retain not less than 500 full-time equivalent jobs, that private investment in an amount not less than $25,000,000 is reasonably expected to occur in the economic development project area, that the economic development project will encourage the increase of commerce and industry within the State, thereby reducing the evils attendant upon unemployment and increasing opportunities for personal income, and that the economic development project will increase or maintain the property, sales and income tax bases of the county and of the State.

Any ordinance adopted by Grundy County that approves the economic development plan shall contain findings that the economic development project is reasonably expected to create or retain not less than 250 full-time equivalent jobs, that private investment in an amount not less than $50,000,000 is reasonably expected to occur in the economic development project area, that the economic development project will encourage the increase of commerce and industry within the State, thereby reducing the evils attendant upon unemployment and increasing opportunities for personal income, and that the economic development project will increase or maintain the property, sales, and income tax bases of the county and of the State.

Any ordinance adopted by Stephenson County that approves an economic development plan shall contain findings that (i) the economic development project is reasonably expected to create or retain not less than 500 full-time equivalent jobs; (ii) private investment in an amount not less than $10,000,000 is reasonably expected to occur in the economic development area; (iii) the economic development project will encourage the increase of commerce and industry within the State, thereby reducing the evils attendant upon unemployment and increasing opportunities for personal income; and (iv) the economic development project will increase or maintain the property, sales, and income tax bases of the county and of the State. Before the economic development project area is established by Stephenson County, the following additional conditions must be included in an intergovernmental agreement approved by both the Stephenson County Board and the corporate authorities of the City of Freeport: (i) the corporate authorities of the City of Freeport must concur by resolution with the findings of Stephenson County; (ii) both the corporate authorities of the City of Freeport and the Stephenson County Board shall approve any and all economic or redevelopment agreements and incentives for any economic development project within the economic development area; (iii) any economic development project that receives funds under this Act, except for any economic development project specifically excluded from annexation in the provisions of the intergovernmental agreement, shall agree to and must enter into an annexation agreement with the City of Freeport to annex property included in the economic development project area to the City of Freeport at the first point in time that the property becomes contiguous to the

City of Freeport; (iv) the local share of all State occupation and use taxes allocable to the City of Freeport and Stephenson County and derived from commercial projects within the economic development project area shall be equally shared by and between the City of Freeport and Stephenson County for the duration of the economic development project; and (v) any development in the economic development project area shall be built in accordance with the building and related codes of both the City of Freeport and Stephenson County and the City of Freeport shall approve all provisions for water and sewer service.

Any ordinance adopted by Peoria County that approves an economic development plan shall contain findings that (i) the economic development project is reasonably expected to create or retain not less than 250 full-time equivalent jobs; (ii) private investment in an amount not less than $15,000,000 is reasonably expected to occur in the economic development project area; (iii) the economic development project will encourage the increase of commerce and industry within the State, thereby reducing the evils attendant upon unemployment and increasing opportunities for personal income; and (iv) the economic development project will increase or maintain the property, sales, and income tax bases of the county and of the State.

The ordinance shall also state that the economic development project area shall not include parcels to be used for purposes of residential development. Any ordinance adopted which establishes an economic development project area shall contain the boundaries of such area by legal description and, where possible, by street location. Any ordinance adopted which authorizes property tax allocation financing shall provide that the ad valorem taxes, if any, arising from the levies upon taxable real property in such economic development project area by taxing districts and tax rates determined in the manner provided in subsection (b) of Section 6 of this Act each year after the effective date of the ordinance until economic development project costs and all county obligations financing economic development project costs incurred under this Act have been paid shall be divided as follows:

(1) That portion of taxes levied upon each taxable lot, block, tract or parcel of real property which is attributable to the lower of the current equalized assessed value or the initial equalized assessed value of each such taxable lot, block, tract or parcel of real property in the economic development project area shall be allocated to, and when collected, shall be paid by the county collector to the respective affected taxing districts in the manner required by law in the absence of the adoption of property tax allocation financing.

(2) That portion, if any, of such taxes which is attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract or parcel of real property in the economic development project area over and above the initial equalized assessed value of each property in the economic development project area shall be allocated to and when collected shall be paid to the county treasurer who shall deposit those taxes into a special fund called the special tax allocation fund of the county for the purpose of paying economic development project costs and obligations incurred in the payment thereof.

(g) After a county has by ordinance approved an economic development plan and established an economic development project area, the plan may be amended and the boundaries of the area may be altered only as herein provided. Amendments which (1) alter the exterior boundaries of an economic development project area, (2) substantially affect the general land uses established pursuant to the economic development plan, (3) substantially change the nature of the economic development plan, (4) change the general description of any proposed developer, user, or tenant of any property to be located or improved within the economic development project area, or (5) change the description of the type, class and number of employees to be employed in the operation of the facilities to be developed or improved shall be made only after review by a joint review board, notice and hearing pursuant to the procedures set forth in this Section. Amendments which do not (1) alter the exterior boundaries of an economic development project area, (2) substantially affect the general land uses established in the economic development plan, (3) substantially change the nature of the economic development plan, (4) change the description of any proposed developer, user, or tenant of any property to be located or improved within the economic development project area, or (5) change the description of the type, class and number of employees to be employed in the operation of the facilities to be developed or improved within the economic development project area may be made without further hearing or notice, provided that the county shall give notice of any amendment by mail to the Department and to each taxing district and by publication in a newspaper or newspapers of general circulation within the affected taxing districts. Such notices by mail and by publication shall each occur not later than 10 days following the adoption by ordinance of such amendments.

(h) After the adoption of an ordinance adopting property tax allocation financing for an economic development project area, the county shall annually report to each taxing district having taxable property

within such economic development project area (i) any increase or decrease in the equalized assessed value of the real property located within such economic development project area above or below the initial equalized assessed value of such real property, (ii) that portion, if any, of the ad valorem taxes arising from the levies upon taxable real property in such economic development project area by the taxing districts which is attributable to the increase in the current equalized assessed valuation of each lot, block, tract or parcel of real property in the economic development project area over and above the initial equalized value of each property and which has been allocated to the county in the current year, and (iii) such other information as the county may deem relevant.

(i) The county shall give notice by mail as provided in this Section and shall reconvene the joint review board not less than annually for each of the 2 years following its adoption of an ordinance adopting property tax allocation financing for an economic development project area and not less than once in each 3-year period thereafter. The county shall provide such information, and may provide administrative support and facilities as the joint review board may reasonably require for each of such meetings.

(Source: P.A. 93-959, eff. 8-20-04; 94-259, eff. 1-1-06.)

(55 ILCS 85/5) (from Ch. 34, par. 7005)

Sec. 5. Submission to Department; certification by Department.

(a) The county shall submit certified copies of any ordinances adopted approving a proposed economic development plan, establishing an economic development project area, and authorizing tax increment allocation financing to the Department, together with (1) a map of the economic development project area, (2) a copy of the economic development plan as approved, (3) an analysis, and any supporting documents and statistics, demonstrating (i) that the economic development project is reasonably expected to create or retain not less than 500 full-time equivalent jobs and (ii) that private investment in the amount of not less than $25,000,000 for all ordinances adopted by Whiteside County , ~~and~~ in the amount of not less than $10,000,000 for any ordinance adopted by Stephenson County , and in the amount of not less than $15,000,000 for any ordinance adopted by Peoria County is reasonably expected to occur in the economic development project area, (4) an estimate of the economic impact of the economic development plan and the use of property tax allocation financing upon the revenues of the county and the affected taxing districts, (5) a record of all public hearings held in connection with the establishment of the economic development project area, and (6) such other information as the Department by regulation may require.

(b) Upon receipt of an application from a county the Department shall review the application to determine whether the economic development project area qualifies as an economic development project area under this Act. At its discretion, the Department may accept or reject the application or may request such additional information as it deems necessary or advisable to aid its review. If any such area is found to be qualified to be an economic development project area, the Department shall approve and certify such economic development project area and shall provide written notice of its approval and certification to the county and to the county clerk. In determining whether an economic development project area shall be approved and certified, the Department shall consider (1) whether, without public intervention, the State would suffer substantial economic dislocation, such as relocation of a commercial business or industrial or manufacturing facility to another state, territory or country, or would not otherwise benefit from private investment offering substantial employment opportunities and economic growth, and (2) the impact on the revenues of the county and the affected taxing districts of the use of tax increment allocation financing in connection with the economic development project.

(c) On or before July 1, 2007, the Department shall submit to the General Assembly a report detailing the number of economic development project areas it has approved and certified, the number and type of jobs created or retained therein, the aggregate amount of private investment therein, the impact in the revenues of counties and affected taxing districts of the use of property tax allocation financing therein, and such additional information as the Department may determine to be relevant. On July 1, 2009 ~~2008~~ the authority granted hereunder to counties to establish economic development project areas and to adopt property tax allocation financing in connection therewith and to the Department to approve and certify economic development project areas shall expire unless the General Assembly shall have authorized counties and the Department to continue to exercise the powers granted to them under this Act.

(Source: P.A. 92-791, eff. 8-6-02; 93-959, eff. 8-20-04.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Koehler, **Senate Bill No. 2033**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 40; Nays 16.

The following voted in the affirmative:

Althoff	Frerichs	Luechtefeld	Steans
Bond	Garrett	Maloney	Sullivan
Clayborne	Haine	Martinez	Trotter
Collins	Halvorson	Meeks	Viverito
Cronin	Harmon	Munoz	Watson
Crotty	Hendon	Noland	Wilhelmi
Cullerton	Hunter	Raoul	Mr. President
DeLeo	Jacobs	Risinger	
Delgado	Koehler	Sandoval	
Demuzio	Lightford	Schoenberg	
Dillard	Link	Silverstein	

The following voted in the negative:

Bivins	Hultgren	Pankau	Syverson
Bomke	Jones, J.	Peterson	
Burzynski	Kotowski	Radogno	
Dahl	Lauzen	Righter	
Holmes	Murphy	Rutherford	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Haine, **Senate Bill No. 2052** was recalled from the order of third reading to the order of second reading.

Senator Haine offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2052

AMENDMENT NO. 3. Amend Senate Bill 2052, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2, on page 3, line 4, after "district" by inserting ", and at least one commissioner shall reside or own property that is located within a floodplain situated in the territory of the flood protection district"; and

by replacing line 18 on page 21 through line 17 on page 22 with the following:

"(70 ILCS 605/4-45 new)

Sec. 4-45. Flood prevention districts; reporting requirement; control. If a flood prevention district has been formed under the Flood Prevention District Act, the flood prevention district shall have the exclusive authority within such areas as designated by the county board to restore, improve, upgrade, construct, or reconstruct levees. If any part of the territory of a drainage district, levee district, or sanitary district overlaps with the territory of a flood prevention district, the drainage district, levee district, or sanitary district shall, at the direction of the county board, operate under the direction of the board of

commissioners of the flood prevention district with respect to the restoration, improvement, upgrade, construction, or reconstruction of levees and other flood control systems. At the direction of the county board, the flood prevention district and its assignees shall be permitted to utilize any property, easements, or rights-of-way owned or controlled by the drainage district, levee district, or sanitary district. In addition, at the direction of the county board, the board of commissioners of any such drainage, levee, or sanitary district must comply with any requests for information by the board of commissioners of the flood prevention district, including, but not limited to, requests for information concerning past, present, and future contracts; employees of the drainage, levee, or sanitary district; finances of the drainage, levee, or sanitary district; and other activities of the drainage, levee, or sanitary district. This information must be submitted to the board of commissioners of the flood prevention district within 30 days after the request is received. Nothing in this Section 4-45 or in the Flood Prevention District Act shall preclude or prohibit a drainage district, levee district, or sanitary district that overlaps the territory of a flood prevention district from conducting or performing its normal operation and maintenance of levees under their control, provided such normal operation and maintenance does not interfere with or inhibit the restoration, improvement, upgrade, construction, or reconstruction of levees and other flood control systems by the flood prevention district.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Haine, **Senate Bill No. 2052**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 41; Nays 15.

The following voted in the affirmative:

Althoff	Haine	Maloney	Silverstein
Bond	Halvorson	Martinez	Steans
Clayborne	Harmon	Meeks	Syverson
Collins	Hendon	Munoz	Trotter
Cronin	Hultgren	Noland	Viverito
Crotty	Hunter	Peterson	Watson
Cullerton	Jacobs	Radogno	Wilhelmi
DeLeo	Koehler	Raoul	Mr. President
Delgado	Lightford	Risinger	
Demuzio	Link	Sandoval	
Garrett	Luechtefeld	Schoenberg	

The following voted in the negative:

Bivins	Dahl	Kotowski	Righter
Bomke	Frerichs	Lauzen	Rutherford
Brady	Holmes	Millner	Sullivan
Burzynski	Jones, J.	Pankau	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Silverstein, **Senate Bill No. 2085** was recalled from the order of third reading to the order of second reading.

Senator Silverstein offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2085

AMENDMENT NO. 3. Amend Senate Bill 2085 by replacing everything after the enacting clause with the following:

"Section 5. The Metropolitan Transit Authority Act is amended by changing Section 41 as follows:

(70 ILCS 3605/41) (from Ch. 111 2/3, par. 341)

Sec. 41. No civil action shall be commenced in any court against the Authority by any person for any injury to his person unless it is commenced within one year from the date that the injury was received or the cause of action accrued. Within one year ~~six (6) months~~ from the date that such an injury was received or such cause of action accrued, any person who is about to commence any civil action in any court against the Authority for damages on account of any injury to his person shall file in the office of the secretary of the Board and also in the office of the General Counsel for the Authority either by himself, his agent, or attorney, a statement, in writing, signed by himself, his agent, or attorney, giving the name of the person to whom the cause of action has accrued, the name and residence of the person injured, the date and about the hour of the accident, the place or location where the accident occurred and the name and address of the attending physician, if any. If the notice provided for by this Section ~~section~~ is not filed as provided, any such civil action commenced against the Authority shall be dismissed and the person to whom any such cause of action accrued for any personal injury shall be forever barred from further suing.

Any person who notifies the Authority that he or she was injured or has a cause of action shall be furnished a copy of Section 41 of this Act. Within 10 days after being notified in writing, the Authority shall either send a copy by certified mail to the person at his or her last known address or hand deliver a copy to the person who shall acknowledge receipt by his or her signature. When the Authority is notified later than one year ~~6 months~~ from the date the injury occurred or the cause of action arose, the Authority is not obligated to furnish a copy of Section 41 to the person. In the event the Authority fails to furnish a copy of Section 41 as provided in this Section, any action commenced against the Authority shall not be dismissed for failure to file a written notice as provided in this Section. Compliance with this Section shall be liberally construed in favor of the person required to file a written statement.

The changes to this Section made by this amendatory Act of the 95th General Assembly apply to causes of action that accrue on or after the effective date of this amendatory Act of the 95th General Assembly.

(Source: P.A. 90-451, eff. 7-1-98.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

At the hour of 7:45 o'clock p.m., Senator Halvorson presiding.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Silverstein, **Senate Bill No. 2085**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 57; Nays None; Present 1.

The following voted in the affirmative:

Althoff	Forby	Link	Rutherford
Bivins	Frerichs	Luechtefeld	Sandoval
Bomke	Garrett	Maloney	Schoenberg
Bond	Haine	Martinez	Silverstein
Brady	Halvorson	Meeks	Steans
Burzynski	Hendon	Millner	Sullivan
Clayborne	Holmes	Munoz	Syverson
Cronin	Hultgren	Murphy	Trotter
Crotty	Hunter	Noland	Viverito
Cullerton	Jacobs	Pankau	Watson
Dahl	Jones, J.	Peterson	Wilhelmi
DeLeo	Koehler	Radogno	Mr. President
Delgado	Kotowski	Raoul	
Demuzio	Lauzen	Righter	
Dillard	Lightford	Risinger	

The following voted present:

Harmon

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

At the hour of 7:47 o'clock p.m., Senator Hendon presiding.

SENATE BILL RECALLED

On motion of Senator Wilhelmi, **Senate Bill No. 2110** was recalled from the order of third reading to the order of second reading.

Senate Floor Amendment No. 2 was held in the Committee on Environment and Energy.

Senator Wilhelmi offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2110

AMENDMENT NO. 3. Amend Senate Bill 2110, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Uniform Environmental Covenants Act.

Section 2. Definitions. In this Act:

(1) "Activity and use limitations" means restrictions or obligations created under this Act with respect to real property.

(2) "Agency" means the Illinois Environmental Protection Agency or any other State or federal agency that determines or approves the environmental response project pursuant to which the environmental covenant is created.

(3) "Common interest community" means a condominium, cooperative, or other real property with respect to which a person, by virtue of the person's ownership of a parcel of real property, is obligated to pay property taxes or insurance premiums, or for maintenance, or improvement of other real property described in a recorded covenant that creates the common interest community.

(4) "Environmental covenant" means a servitude arising under an environmental response project that imposes activity and use limitations.

(5) "Environmental response project" means a plan or work performed for environmental remediation of real property at the following sites or facilities:

(A) all sites or facilities that are listed as proposed or final on the National

Priorities List pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9601 et seq.);

(B) all sites or facilities undergoing remediation pursuant to an administrative order issued pursuant to Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended(42 U.S.C.9601 et seq.);

(C) all sites or facilities that are owned or operated by a department, agency, or instrumentality of the United States that are undergoing remediation pursuant to Section 120 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9601 et seq.);

(D) all sites or facilities undergoing remediation pursuant to a settlement agreement pursuant to Section 122 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9601 et seq.);

(E) all sites or facilities undergoing remediation pursuant to Section 3008(h) of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.);

(F) all sites or facilities undergoing remediation pursuant to Section 7003 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.); or

(G) all sites or facilities undergoing remediation pursuant to a court or board order issued pursuant to the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.) with the approval of the Agency.

(6) "Holder" means the grantee of an environmental covenant as specified in Section 3(a).

(7) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(8) "Prior interest" means a preceding or senior interest, in time or in right, that is recorded with respect to the real property, including but not limited to a mortgage, easement, or other interest, lien, or encumbrance predating the recording of an environmental covenant.

(9) "Record", used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(10) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Section 3. Nature of rights; subordination of interests.

(a) An owner or owners of real property may voluntarily enter into an environmental covenant, as a grantor of an interest in the real property, with an agency and, if appropriate, one or more holders. No owner, agency, or other person shall be required to enter into an environmental covenant as part of an environmental response project; provided, however, that (i) failure to enter into an environmental covenant may result in disapproval of the environmental response project; and (ii) once the owner, agency, or other person assumes obligations in an environmental covenant they must comply with those obligations of the environmental covenant in accordance with this Act.

(b) Any person, including a person that owns an interest in the real property, the agency, or a municipality or other unit of local government, may be a holder. An environmental covenant may identify more than one holder. The interest of a holder is an interest in real property.

(c) A right of an agency under this Act or under an environmental covenant, other than a right as a holder, is not an interest in real property.

(d) An agency is bound by any obligation it assumes in an environmental covenant, but an agency does not assume obligations merely by signing an environmental covenant. Any other person that signs an environmental covenant is bound by the obligations the person assumes in the covenant, but signing the covenant does not change obligations, rights, or protections granted or imposed under law other than this Act except as provided in the covenant.

(e) The following rules apply to interests in real property in existence at the time an environmental covenant is created or amended:

(1) An interest that has priority under other law is not affected by an environmental covenant unless the person that owns the interest subordinates that interest to the covenant.

(2) This Act does not require a person that owns a prior interest to subordinate that interest to an environmental covenant or to agree to be bound by the covenant.

(3) A subordination agreement may be contained in an environmental covenant covering real property or in a separate record. If the environmental covenant covers commonly owned property in a common interest community, the record may be signed by any person authorized by the

governing board of the owners association.

(4) An agreement by a person to subordinate a prior interest to an environmental covenant affects the priority of that person's interest but does not by itself impose any affirmative obligation on the person with respect to the environmental covenant.

(f) Environmental covenants established under this Act shall be subject to eminent domain or condemnation proceedings by any agency of the State having a general grant of authority to acquire property by the exercise of the right of eminent domain under the laws of this State. No environmental covenant established under this Act shall be terminated or modified unless:

(1) The agency that signed the covenant is a party to the proceeding;

(2) All persons identified in Section 10(a) and (b) are given notice of the pendency of the proceeding; and

(3) The agency of the State exercising the right of eminent domain or condemnation determines, after hearing, that the termination or modification will not adversely affect human health or the environment.

Section 4. Contents of environmental covenant.

(a) An environmental covenant must:

(1) State that the instrument is an environmental covenant executed pursuant to this Act.

(2) Contain a legally sufficient description of the real property subject to the covenant.

(3) Describe the activity and use limitations on the real property.

(4) Identify every holder.

(5) Be signed by the agency, every holder, and unless waived by the agency every owner of the fee simple of the real property subject to the covenant.

(6) Identify the name and location of any administrative record for the environmental response project reflected in the environmental covenant.

(b) In addition to the information required by subsection (a), an environmental covenant may contain other information, restrictions, and requirements agreed to by the persons who signed it, including any:

(1) Requirements for notice following transfer of a specified interest in, or concerning proposed changes in use of, applications for building permits for, or proposals for any site work affecting the contamination on, the property subject to the covenant.

(2) Requirements for periodic reporting describing compliance with the covenant.

(3) Rights of access to the property granted in connection with implementation or enforcement of the covenant.

(4) A brief narrative description of the contamination and remedy, including the contaminants of concern, the pathways of exposure, limits on exposure, and the location and extent of the contamination.

(5) Limitation on amendment or termination of the covenant in addition to those contained in Sections 9 and 10.

(6) Rights of the holder in addition to its right to enforce the covenant pursuant to Section 11.

(c) In addition to other conditions for its approval of an environmental covenant, the agency may require those persons specified by the agency who have interests in the real property to sign the covenant.

Section 5. Validity; effect on other instruments.

(a) An environmental covenant that complies with this Act runs with the land.

(b) An environmental covenant that is otherwise effective is valid and enforceable even if:

(1) It is not appurtenant to an interest in real property.

(2) It can be or has been assigned to a person other than the original holder.

(3) It is not of a character that has been recognized traditionally at common law.

(4) It imposes a negative burden.

(5) It imposes an affirmative obligation on a person having an interest in the real property or on the holder.

(6) The benefit or burden does not touch or concern real property.

(7) There is no privity of estate or contract.

(8) The holder dies, ceases to exist, resigns, or is replaced.

(9) The owner of an interest subject to the environmental covenant and the holder are

the same person.

(c) An instrument that creates restrictions or obligations with respect to real property that would qualify as activity and use limitations except for the fact that the instrument was recorded before the effective date of this Act is not invalid or unenforceable because of any of the limitations on enforcement of interests described in subsection (b) or because it was identified as an easement, servitude, deed restriction, or other interest. This Act does not apply in any other respect to such an instrument.

(d) This Act does not invalidate or render unenforceable any interest, whether designated as an environmental covenant or other interest, that is otherwise enforceable under the law of this State, including but not limited to interests compliant with 35 Ill. Adm. Code 742, Subpart J.

Section 6. Relationship to other land-use law. This Act does not authorize a use of real property that is otherwise prohibited by zoning, by law other than this Act regulating use of real property, or by a recorded instrument that has priority over the environmental covenant. An environmental covenant may prohibit or restrict uses of real property which are authorized by zoning or by law other than this Act.

Section 7. Notice.

(a) A copy of an environmental covenant shall be provided by the persons and in the manner required by the agency to:

(1) Each person that signed the covenant.

(2) Each person holding a recorded interest in the real property subject to the covenant.

(3) Each person in possession of the real property subject to the covenant.

(4) Each municipality or other unit of local government in which real property subject to the covenant is located.

(5) Any other person the agency requires.

(b) The validity of a covenant is not affected by failure to provide a copy of the covenant as required under this Section.

Section 8. Recording.

(a) An environmental covenant and any amendment or termination of the covenant must be recorded in every county in which any portion of the real property subject to the covenant is located. For purposes of indexing, a holder shall be treated as a grantee.

(b) Except as otherwise provided in Section 9(c), an environmental covenant is subject to the laws of this State governing recording and priority of interests in real property.

Section 9. Duration; amendment by court action.

(a) An environmental covenant is perpetual unless it is:

(1) By its terms limited to a specific duration or terminated by the occurrence of a specific event.

(2) Terminated by consent pursuant to Section 10.

(3) Terminated pursuant to subsection (b).

(4) Terminated by foreclosure of an interest that has priority over the environmental covenant.

(5) Terminated or modified in an eminent domain proceeding, but only if:

(A) The agency that signed the covenant is a party to the proceeding.

(B) All persons identified in Section 10(a) and (b) are given notice of the pendency of the proceeding.

(C) The court determines, after hearing, that the termination or modification will not adversely affect human health or the environment.

(b) If the agency that signed an environmental covenant has determined that the intended benefits of the covenant can no longer be realized, a court, under the doctrine of changed circumstances, in an action in which all persons identified in Section 10(a) and (b) have been given notice, may terminate the covenant or reduce its burden on the real property subject to the covenant. The agency's determination or its failure to make a determination upon request is subject to review pursuant to the Administrative Review Law.

(c) Except as otherwise provided in subsections (a) and (b), an environmental covenant may not be extinguished, limited, or impaired through issuance of a tax deed, foreclosure of a tax lien, or application of the doctrine of adverse possession, prescription, abandonment, waiver, lack of enforcement, or acquiescence, or a similar doctrine.

(d) An environmental covenant may not be extinguished, limited, or impaired by application of any Illinois Law concerning marketable title or dormant mineral interests.

Section 10. Amendment or termination by consent.

(a) An environmental covenant may be amended or terminated by consent only if the amendment or termination is signed by:

(1) The agency.

(2) Unless waived by the agency, the current owner of the fee simple of the real property subject to the covenant.

(3) Each person that originally signed the covenant, unless the person waived in a signed record the right to consent or a court finds that the person no longer exists or cannot be located or identified with the exercise of reasonable diligence.

(4) Except as otherwise provided in subsection (d)(2), the holder.

(b) If an interest in real property is subject to an environmental covenant, the interest is not affected by an amendment of the covenant unless the current owner of the interest consents to the amendment or has waived in a signed record the right to consent to amendments.

(c) Except for an assignment undertaken pursuant to a governmental reorganization, assignment of an environmental covenant to a new holder is an amendment.

(d) Except as otherwise provided in an environmental covenant:

(1) A holder may not assign its interest without consent of the other parties.

(2) A holder may be removed and replaced by agreement of the other parties specified in subsection (a).

(3) A court of competent jurisdiction may fill a vacancy in the position of holder.

Section 11. Enforcement of environmental covenant.

(a) A civil action for injunctive or other equitable relief for violation of an environmental covenant may be maintained by:

(1) A party to the covenant.

(2) The agency or, if it is not the agency, the Illinois Environmental Protection Agency.

(3) Any person to whom the covenant expressly grants power to enforce.

(4) A person whose interest in the real property or whose collateral or liability may be affected by the alleged violation of the covenant.

(5) A municipality or other unit of local government in which the real property subject to the covenant is located.

(b) This Act does not limit the regulatory authority of the agency or the Illinois Environmental Protection Agency under law other than this Act with respect to an environmental response project.

(c) A person is not responsible for or subject to liability for environmental remediation solely because it has the right to enforce an environmental covenant.

Section 12. Registry; substitute notice.

(a) The Illinois Environmental Protection Agency shall establish and maintain a registry that contains all environmental covenants and any amendment or termination of those covenants. The registry may also contain any other information concerning environmental covenants and the real property subject to them which the Illinois Environmental Protection Agency considers appropriate. The registry is a public record for purposes of the Freedom of Information Act.

(b) After an environmental covenant or an amendment or termination of a covenant is filed in the registry established pursuant to subsection (a), a notice of the covenant, amendment, or termination that complies with this Section may be recorded in the land records in lieu of recording the entire covenant. Any such notice must contain:

(1) A legally sufficient description and any available street address of the real property subject to the covenant.

(2) The name and address of the owner of the fee simple interest in the real property, the agency, and the holder if other than the agency.

(3) A statement that the covenant, amendment, or termination is available in a registry at the Environmental Protection Agency at its office in Springfield, which discloses the method of any electronic access.

(4) A statement that the notice is notification of an environmental covenant executed pursuant to this Act.

(c) A statement in substantially the following form, executed with the same formalities as a deed in

this State, satisfies the requirements of subsection (b):

(1) This notice is filed in the land records of (insert name of county in which the real property is located) pursuant to Section 12 of the Uniform Environmental Covenants Act.

(2) This notice and the covenant, amendment or termination to which it refers may impose significant obligations with respect to the property described below.

(3) A legal description of the property is attached as Exhibit A to this notice. The address of the property that is subject to the environmental covenant is (insert address of property).

(4) The name and address of the owner of the fee simple interest in the real property on the date of this notice is (insert name of current owner of the property and the owner's current address as shown on the tax records of the jurisdiction in which the property is located).

(5) The environmental covenant, amendment or termination was signed by (insert name and address of the agency).

(6) The environmental covenant, amendment, or termination was filed in the registry on (insert date of filing).

(7) The full text of the covenant, amendment, or termination and any other information required by the agency is on file and available for inspection and copying in the registry maintained for that purpose by the Illinois Environmental Protection Agency at (insert address and room of buildings in which the registry is maintained). The covenant, amendment or termination may be found electronically at (insert web address for covenant).

Section 13. Uniformity of application and construction. In applying and construing this uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 14. Relation to Electronic Signatures in Global and National Commerce Act. This Act modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001 et seq.) but does not modify, limit, or supersede Section 101 of that Act (15 U.S.C. Section 7001(a)) or authorize electronic delivery of any of the notices described in Section 103 of that Act (15 U.S.C. Section 7003(b)).

Section 15. Severability. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Wilhelmi, **Senate Bill No. 2110**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Rutherford
Bivins	Forby	Link	Sandoval
Bomke	Frerichs	Luechtefeld	Schoenberg
Bond	Garrett	Maloney	Silverstein
Brady	Haine	Meeks	Steans
Burzynski	Halvorson	Millner	Sullivan

Clayborne	Harmon	Munoz	Syverson
Collins	Hendon	Murphy	Trotter
Cronin	Holmes	Noland	Viverito
Crotty	Hultgren	Pankau	Watson
Cullerton	Hunter	Peterson	Wilhelmi
Dahl	Jacobs	Radogno	Mr. President
DeLeo	Jones, J.	Raoul	
Delgado	Koehler	Righter	
Demuzio	Kotowski	Risinger	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Wilhelmi, **Senate Bill No. 2111** was recalled from the order of third reading to the order of second reading.

Senator Wilhelmi offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2111

AMENDMENT NO. 1. Amend Senate Bill 2111 by replacing everything after the enacting clause with the following:

"Section 5. The Code of Civil Procedure is amended by changing Sections 3-103, 3-105, 3-107, 3-111, and 3-113 as follows:

(735 ILCS 5/3-103) (from Ch. 110, par. 3-103)

Sec. 3-103. Commencement of action. Every action to review a final administrative decision shall be commenced by the filing of a complaint and the issuance of summons within 35 days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision, except that:

~~(1)~~ in municipalities with a population of 500,000 or less a complaint filed within the time limit established by this Section may be subsequently amended to add a police chief or a fire chief in cases brought under the Illinois Municipal Code's provisions providing for the discipline of fire fighters and police officers; ~~; and~~

~~(2) in other actions for review of a final administrative decision, a complaint filed within the time limit established by this Section may be amended to add an employee, agent, or member of an administrative agency, board, committee, or government entity, who acted in an official capacity as a party of record to the administrative proceeding, if the administrative agency, board, committee, or government entity is a party to the administrative review action. If the director or agency head, in his or her official capacity, is a party to the administrative review, a complaint filed within the time limit established by this Section may be amended to add the administrative agency, board, committee, or government entity.~~

The method of service of the decision shall be as provided in the Act governing the procedure before the administrative agency, but if no method is provided, a decision shall be deemed to have been served either when a copy of the decision is personally delivered or when a copy of the decision is deposited in the United States mail, in a sealed envelope or package, with postage prepaid, addressed to the party affected by the decision at his or her last known residence or place of business.

The form of the summons and the issuance of alias summons shall be according to rules of the Supreme Court.

This amendatory Act of 1993 applies to all cases involving discipline of fire fighters and police officers pending on its effective date and to all cases filed on or after its effective date.

The changes to this Section made by this amendatory Act of the 95th General Assembly apply to all actions filed on or after the effective date of this amendatory Act of the 95th General Assembly.

(Source: P.A. 88-1; 88-110; 88-670, eff. 12-2-94; 89-685, eff. 6-1-97.)

(735 ILCS 5/3-105) (from Ch. 110, par. 3-105)

Sec. 3-105. Service of summons. Summons issued in any action to review the final administrative

decision of any administrative agency shall be served by registered or certified mail on the administrative agency and on each of the other defendants except in the case of a review of a final administrative decision of the regional board of school trustees, regional superintendent of schools, or State Superintendent of Education, as the case may be, when a committee of 10 has been designated as provided in Section 7-6 of the School Code, and in such case only the administrative agency involved and each of the committee of 10 shall be served. The method of service shall be as provided in the Act governing the procedure before the administrative agency, but if no method is provided, summons shall be deemed to have been served either when a copy of the summons is personally delivered or when a copy of the decision is deposited in the United States mail, in a sealed envelope or package, with postage prepaid, addressed to the party affected by the decision at his or her last known residence or place of business. The form of the summons and the issuance of alias summons shall be according to rules of the Supreme Court. No action for administrative review shall be dismissed for lack of jurisdiction based upon the failure to serve summons on an employee, agent, or member of an administrative agency, board, committee, or government entity, acting in his or her official capacity, where the administrative agency, board, committee, or government entity has been served as provided in this Section. Service on the director or agency head, in his or her official capacity, shall be deemed service on the administrative agency, board, committee, or government entity. No action for administrative review shall be dismissed for lack of jurisdiction based upon the failure to serve summons on an administrative agency, board, committee, or government entity, acting, where the director or agency head, in his or her official capacity, has been served as provided in this Section. Service on the administrative agency shall be made by the clerk of the court by sending a copy of the summons addressed to the agency at its main office in the State. The clerk of the court shall also mail a copy of the summons to each of the other defendants, addressed to the last known place of residence or principal place of business of each such defendant. The plaintiff shall, by affidavit filed with the complaint, designate the last known address of each defendant upon whom service shall be made. The certificate of the clerk of the court that he or she has served such summons in pursuance of this Section shall be evidence that he or she has done so.

The changes to this Section made by this amendatory Act of the 95th General Assembly apply to all actions filed on or after the effective date of this amendatory Act of the 95th General Assembly.

(Source: P.A. 88-1; 89-685, eff. 6-1-97.)

(735 ILCS 5/3-107) (from Ch. 110, par. 3-107)

Sec. 3-107. Defendants.

(a) Except as provided in subsection (b) or (c), in any action to review any final decision of an administrative agency, the administrative agency and all persons, other than the plaintiff, who were parties of record to the proceedings before the administrative agency shall be made defendants. The method of service of the decision shall be as provided in the Act governing the procedure before the administrative agency, but if no method is provided, a decision shall be deemed to have been served either when a copy of the decision is personally delivered or when a copy of the decision is deposited in the United States mail, in a sealed envelope or package, with postage prepaid, addressed to the party affected by the decision at his or her last known residence or place of business. The form of the summons and the issuance of alias summons shall be according to rules of the Supreme Court.

No action for administrative review shall be dismissed for lack of jurisdiction based upon the failure to name an employee, agent, or member, who acted in his or her official capacity, of an administrative agency, board, committee, or government entity, where the administrative agency, board, committee, or government entity, has been named as a defendant as provided in this Section. Naming the director or agency head, in his or her official capacity, shall be deemed to include as defendant the administrative agency, board, committee, or government entity that the named defendants direct or head. No action for administrative review shall be dismissed for lack of jurisdiction based upon the failure to name an administrative agency, board, committee, or government entity, where the director or agency head, in his or her official capacity, has been named as a defendant as provided in this Section.

If, during the course of a review action, the court determines that an agency or a party of record to the administrative proceedings was not made a defendant as required by the preceding paragraph, ~~and only if that party was not named by the administrative agency in its final order as a party of record,~~ then the court shall grant the plaintiff 35 ~~21~~ days from the date of the determination in which to name and serve the unnamed agency or party as a defendant. The court shall permit the newly served defendant to participate in the proceedings to the extent the interests of justice may require.

(b) With respect to actions to review decisions of a zoning board of appeals in a municipality with a population of 500,000 or more inhabitants under Division 13 of Article 11 of the Illinois Municipal Code, "parties of record" means only the zoning board of appeals and applicants before the zoning board of appeals. The plaintiff shall send a notice of filing of the action by certified mail to each other person

who appeared before and submitted oral testimony or written statements to the zoning board of appeals with respect to the decision appealed from. The notice shall be mailed within 2 days of the filing of the action. The notice shall state the caption of the action, the court in which the action is filed, and the names of the plaintiff in the action and the applicant to the zoning board of appeals. The notice shall inform the person of his or her right to intervene. Each person who appeared before and submitted oral testimony or written statements to the zoning board of appeals with respect to the decision appealed from shall have a right to intervene as a defendant in the action upon application made to the court within 30 days of the mailing of the notice.

(c) With respect to actions to review decisions of a hearing officer or a county zoning board of appeals under Division 5-12 of Article 5 of the Counties Code, "parties of record" means only the hearing officer or the zoning board of appeals and applicants before the hearing officer or the zoning board of appeals. The plaintiff shall send a notice of filing of the action by certified mail to each other person who appeared before and submitted oral testimony or written statements to the hearing officer or the zoning board of appeals with respect to the decision appealed from. The notice shall be mailed within 2 days of the filing of the action. The notice shall state the caption of the action, the court in which the action is filed, and the name of the plaintiff in the action and the applicant to the hearing officer or the zoning board of appeals. The notice shall inform the person of his or her right to intervene. Each person who appeared before and submitted oral testimony or written statements to the hearing officer or the zoning board of appeals with respect to the decision appealed from shall have a right to intervene as a defendant in the action upon application made to the court within 30 days of the mailing of the notice. This subsection (c) applies to zoning proceedings commenced on or after the effective date of this amendatory Act of the 95th General Assembly.

(d) The changes to this Section made by this amendatory Act of the 95th General Assembly apply to all actions filed on or after the effective date of this amendatory Act of the 95th General Assembly.

(Source: P.A. 95-321, eff. 8-21-07.)

(735 ILCS 5/3-111) (from Ch. 110, par. 3-111)

Sec. 3-111. Powers of circuit court.

(a) The Circuit Court has power:

(1) with or without requiring bond (except if otherwise provided in the particular statute under authority of which the administrative decision was entered), and before or after answer filed, upon notice to the agency and good cause shown, to stay the decision of the administrative agency in whole or in part pending the final disposition of the case. For the purpose of this subsection, "good cause" requires the applicant to show (i) that an immediate stay is required in order to preserve the status quo without endangering the public, (ii) that it is not contrary to public policy, and (iii) that there exists a reasonable likelihood of success on the merits;

(2) to make any order that it deems proper for the amendment, completion or filing of the record of proceedings of the administrative agency;

(3) to allow substitution of parties by reason of marriage, death, bankruptcy, assignment or other cause;

(4) to dismiss parties, to correct misnomers, ~~or~~ to realign parties , or to join agencies or parties ~~plaintiffs and defendants~~;

(5) to affirm or reverse the decision in whole or in part;

(6) where a hearing has been held by the agency, to reverse and remand the decision in whole or in part, and, in that case, to state the questions requiring further hearing or proceedings and to give such other instructions as may be proper;

(7) where a hearing has been held by the agency, to remand for the purpose of taking additional evidence when from the state of the record of the administrative agency or otherwise it shall appear that such action is just. However, no remandment shall be made on the ground of newly discovered evidence unless it appears to the satisfaction of the court that such evidence has in fact been discovered subsequent to the termination of the proceedings before the administrative agency and that it could not by the exercise of reasonable diligence have been obtained at such proceedings; and that such evidence is material to the issues and is not cumulative;

(8) in case of affirmance or partial affirmance of an administrative decision which requires the payment of money, to enter judgment for the amount justified by the record and for costs, which judgment may be enforced as other judgments for the recovery of money;

(9) when the particular statute under authority of which the administrative decision was entered requires the plaintiff to file a satisfactory bond and provides for the dismissal of the action for the plaintiff's failure to comply with this requirement unless the court is authorized by the particular statute to enter, and does enter, an order imposing a lien upon the plaintiff's property, to take

such proofs and to enter such orders as may be appropriate to carry out the provisions of the particular statute. However, the court shall not approve the bond, nor enter an order for the lien, in any amount which is less than that prescribed by the particular statute under authority of which the administrative decision was entered if the statute provides what the minimum amount of the bond or lien shall be or provides how said minimum amount shall be determined. No such bond shall be approved by the court without notice to, and an opportunity to be heard thereon by, the administrative agency affected. The lien, created by the entry of a court order in lieu of a bond, shall not apply to property exempted from the lien by the particular statute under authority of which the administrative decision was entered. The lien shall not be effective against real property whose title is registered under the provisions of the Registered Titles (Torrens) Act until the provisions of Section 85 of that Act are complied with.

(b) Technical errors in the proceedings before the administrative agency or its failure to observe the technical rules of evidence shall not constitute grounds for the reversal of the administrative decision unless it appears to the court that such error or failure materially affected the rights of any party and resulted in substantial injustice to him or her.

(c) On motion of either party, the circuit court shall make findings of fact or state the propositions of law upon which its judgment is based.

(d) The changes to this Section made by this amendatory Act of the 95th General Assembly apply to all actions filed on or after the effective date of this amendatory Act of the 95th General Assembly.

(Source: P.A. 88-1; 88-184; 88-670, eff. 12-2-94.)

(735 ILCS 5/3-113)

Sec. 3-113. Direct review of administrative orders by the appellate court.

(a) Unless another time is provided specifically by the law authorizing the review, an action for direct review of a final administrative decision of an administrative agency by the appellate court shall be commenced by the filing of a petition for review in the appellate court within 35 days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision. The method of service of the decision shall be as provided in the Act governing the procedure before the administrative agency, but if no method is provided, a decision shall be deemed to have been served either when a copy of the decision is personally delivered or when a copy of the decision is deposited in the United States mail, in a sealed envelope or package, with postage prepaid, addressed to the party affected by the decision at his or her last known residence or place of business.

(b) The petition for review shall be filed in the appellate court and shall specify the parties seeking review and shall designate the respondent and the order or part thereof to be reviewed. The administrative agency and all persons, other than the petitioner, who were ~~other~~ parties of record to the proceedings before the administrative agency shall be made ~~named~~ respondents. The method of service of the decision shall be as provided in the Act governing the procedure before the administrative agency, but if no method is provided, a decision shall be deemed to have been served either when a copy of the decision is personally delivered or when a copy of the decision is deposited in the United States mail, in a sealed envelope or package, with postage prepaid, addressed to the party affected by the decision at his or her last known residence or place of business. The form of the summons and the issuance of alias summons shall be according to rules of the Supreme Court.

If, during the course of a review action, the court determines that an agency or a party of record to the administrative proceedings was not made a defendant as required by the preceding paragraph, ~~and only if that party was not named by the administrative agency in its final order as a party of record,~~ then the court shall grant the plaintiff 35 ~~21~~ days from the date of the determination in which to name and serve the unnamed agency or party as a defendant. The court shall permit the newly served defendant to participate in the proceedings to the extent the interests of justice may require.

(c) The changes to this Section made by this amendatory Act of the 95th General Assembly apply to all actions filed on or after the effective date of this amendatory Act of the 95th General Assembly.

(Source: P.A. 88-1; 89-438, eff. 12-15-95.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Wilhelmi, **Senate Bill No. 2111**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Viverito
Dahl	Jacobs	Pankau	Watson
DeLeo	Jones, J.	Peterson	Wilhelmi
Delgado	Koehler	Radogno	Mr. President
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Koehler, **Senate Bill No. 2112** was recalled from the order of third reading to the order of second reading.

Senator Koehler offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2112

AMENDMENT NO. 1. Amend Senate Bill 2112 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Public Aid Code is amended by adding Section 5-2.08 as follows:

(305 ILCS 5/5-2.08 new)

Sec. 5-2.08. Spousal caregiver demonstration.

(a) The Department of Human Services, in consultation with the Department of Healthcare and Family Services, shall develop a demonstration project within the Home Services Program under which a spouse may be reimbursed for providing care to his or her spouse, who is eligible for services through the Home Services Program and who meets the criteria for this demonstration project. The demonstration project shall operate in selected counties and be limited to serving no more than 100 unduplicated persons in a State Fiscal Year.

The components of the demonstration project shall include the following:

(1) Authorization for a spouse to be reimbursed for care provided to his or her otherwise eligible spouse through the Home Services Program.

(2) The development of specific criteria for the provision of services under the demonstration project.

(3) The determination of the personal care or similar services for which payment may be made.

(4) The method for determining that the amount of personal care or similar services provided by the

spouse is "extraordinary care" that exceeds the ordinary care that would be provided to a spouse without a disability.

(5) Limitations on the number of hours of personal services that will be reimbursed.

(6) Utilization of the Determination of Need evaluation and other comprehensive assessment tools as criteria for determining eligibility and developing service plans under the demonstration project.

(7) Determination of how or whether the provision of personal care by the spouse is in the best interest of his or her spouse, who is an eligible participant in the demonstration project.

(8) Use of procedures that ensure that payments are made for services rendered.

(9) Assurances that all other criteria of the demonstration project are met.

(10) Measurement of participant experiences.

(b) By July 1, 2008, the Department of Human Services, in consultation with the Department of Healthcare and Family Services, shall begin development of the demonstration project. The Department of Human Services shall provide an interim report on or before March 1, 2009 to the Governor and the General Assembly that includes the progress on the development of the demonstration project and implementation timelines of the demonstration project and the criteria for the demonstration project.

(c) The Department of Human Services shall report findings and recommendations by March 1, 2010 to the Governor and the General Assembly. The report shall include an explanation of the manner in which each demonstration project component listed in paragraphs (1) through (10) of subsection (a) is addressed. In addition, the report shall include (i) the estimated number of clients statewide who could utilize services and (ii) an analysis of the fiscal impact per client on the Department's new and existing costs under the Home Services Program.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Koehler, **Senate Bill No. 2112**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Risinger
Bivins	Forby	Lightford	Rutherford
Bomke	Frerichs	Link	Sandoval
Bond	Garrett	Maloney	Schoenberg
Brady	Haine	Martinez	Silverstein
Burzynski	Halvorson	Meeks	Steans
Clayborne	Harmon	Millner	Sullivan
Collins	Hendon	Munoz	Syverson
Cronin	Holmes	Murphy	Trotter
Crotty	Hultgren	Noland	Viverito
Cullerton	Hunter	Pankau	Watson
Dahl	Jacobs	Peterson	Wilhelmi
DeLeo	Jones, J.	Radogno	Mr. President
Delgado	Koehler	Raoul	
Demuzio	Kotowski	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Radogno, **Senate Bill No. 2113** was recalled from the order of third reading to the order of second reading.

Senator Radogno offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2113

AMENDMENT NO. 3. Amend Senate Bill 2113, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2, on page 3, by replacing lines 17 through 19 with the following:

"(6) Collect, use, or disclose a social security number from an individual, unless required to do so under State or federal law, rules, or regulations, or unless the collection, use, or disclosure of the".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Radogno, **Senate Bill No. 2113**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Viverito
Dahl	Jacobs	Pankau	Watson
DeLeo	Jones, J.	Peterson	Wilhelmi
Delgado	Koehler	Radogno	Mr. President
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Raoul, **Senate Bill No. 2118** was recalled from the order of third reading to the order of second reading.

Senator Raoul offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2118

AMENDMENT NO. 1. Amend Senate Bill 2118 on page 2, line 2, by inserting after the period the following:

"The 40 hour time period shall be tolled to allow counsel for the minor to prepare for the detention or shelter care hearing, upon a motion filed by such counsel and granted by the court.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Radogno, **Senate Bill No. 2118**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Viverito
Dahl	Jacobs	Pankau	Watson
DeLeo	Jones, J.	Peterson	Wilhelmi
Delgado	Koehler	Radogno	Mr. President
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Wilhelmi, **Senate Bill No. 2129** was recalled from the order of third reading to the order of second reading.

Senator Wilhelmi offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2129

AMENDMENT NO. 1. Amend Senate Bill 2129 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Underground Utility Facilities Damage Prevention Act is amended by changing Sections 2.1, 2.2, 2.6, 4, 6, 7, 10, and 11 and by adding Sections 2.1.2, 2.1.3, 2.1.4, 2.1.5, 2.1.6, 2.1.7, 2.1.8, 2.1.9, 4.1, 4.2, 4.3, 4.4, 4.5, and 4.6 as follows:

(220 ILCS 50/2.1) (from Ch. 111 2/3, par. 1602.1)

Sec. 2.1. "Person" means an individual, firm, joint venture, partnership, corporation, association, municipality or other governmental unit, department or agency, utility cooperative, or joint stock association, and includes any trustee, receiver, or assignee or employee or agent ~~or personal representative~~ thereof.

(Source: P.A. 86-674.)

(220 ILCS 50/2.1.2 new)

Sec. 2.1.2. Joint meet. "Joint meet" means (i) a meeting scheduled through the State-Wide One-Call Notice System for excavators, owners, or operators of underground utility facilities, utility facility locators, or other necessary parties to discuss a large or complicated excavation or as an opportunity to exchange information, such as maps, plans, or schedules and (ii) a request processed through the State-Wide One-Call Notice System to have facility owners or operators pick up maps, plans, or schedules.

(220 ILCS 50/2.1.3 new)

Sec. 2.1.3. No show request. "No show request" means a notice initiated by an excavator through the State-Wide One-Call Notice System to the owners or operators of underground utility facilities notified in the prior locate request that either failed to mark their facilities or to communicate their non-involvement with the excavation prior to the requested dig start date and time.

(220 ILCS 50/2.1.4 new)

Sec. 2.1.4. Incomplete request. "Incomplete request" means a notice initiated by an excavator through the State-Wide One-Call Notice System to the owners or operators of underground utility facilities notified in a prior locate request that such facility owners or operators, as identified by the person excavating, did not completely mark the entire extent or the entire segment of the proposed excavation, as identified by the excavator in the prior notice.

(220 ILCS 50/2.1.5 new)

Sec. 2.1.5. Re-mark request. "Re-mark request" means a notice initiated by an excavator through the State-Wide One-Call Notice System to the owners or operators of underground utility facilities notified in the initial locate request requesting facility owners or operators to re-mark all or part of the work area identified in the initial locate request, because facility markings are becoming or have become indistinguishable due to factors, including, but not limited to, weather, fading, construction activity, or vandalism.

(220 ILCS 50/2.1.6 new)

Sec. 2.1.6. Residential property owner. "Residential property owner" means any individual or entity that owns or leases real property, which property is zoned residential and used by such individual or entity as its residence or dwelling. Residential property owner does not include any persons who own or lease residential property for the purpose of holding or developing such property or for any other business or commercial purposes.

(220 ILCS 50/2.1.7 new)

Sec. 2.1.7. Designer. "Designer" means any person involved in the preparation of plans for a construction or improvement project that may require excavation or demolition and who has been registered to utilize the design stage request process through the State-Wide One-Call Notice System.

(220 ILCS 50/2.1.8 new)

Sec. 2.1.8. Design stage request. "Design stage request" means a request for the approximate location of underground utility facilities by a designer who is in the design stage of a project and excavation is not intended in the immediate future.

(220 ILCS 50/2.1.9 new)

Sec. 2.1.9. JULIE Excavator Manual. "JULIE Excavator Manual" means the handbook periodically updated and published by the State-Wide One-Call Notice System that provides information for excavators and facility owners and operators on the use and services of the State-Wide One-Call Notice System.

(220 ILCS 50/2.2) (from Ch. 111 2/3, par. 1602.2)

Sec. 2.2. Underground utility facilities.

(a) "Underground utility facilities" or "facilities" means and includes wires, ducts, fiber optic cable, conduits, pipes, sewers, and cables and their connected appurtenances installed beneath the surface of the ground by:

(1) a public utility as defined in the Public Utilities Act;

(2) a municipally owned or mutually owned utility providing a similar utility service;

(3) a pipeline entity transporting gases, crude oil, petroleum products, or other hydrocarbon materials within the State;

(4) a telecommunications carrier as defined in the Universal Telephone Service Protection Law of 1985, or by a company described in Section 1 of the Telephone Company Act;

(5) a community antenna television system, as defined in the Illinois Municipal Code; and

(6) any other entity owning or operating underground facilities that transport generated electrical power to other utility owners or operators.

(b) "Underground utility facilities" or "facilities" does not mean underground utility facilities operated by an electric cooperative as defined in the Public Utilities Act.

~~"Underground utility facilities" or "facilities" means and includes wires, ducts, fiber optic cable, conduits, pipes, sewers, and cables and their connected appurtenances installed beneath the surface of the ground by a public utility (as is defined in the Illinois Public Utilities Act, as amended), or by a municipally owned or mutually owned utility providing a similar utility service, except an electric cooperative as defined in the Illinois Public Utilities Act, as amended, or by a pipeline entity transporting gases, crude oil, petroleum products, or other hydrocarbon materials within the State, or by a telecommunications carrier as defined in the Universal Telephone Service Protection Law of 1985, or by a company described in Section 1 of "An Act relating to the powers, duties and property of telephone companies", approved May 16, 1903, as amended, or by a community antenna television system, hereinafter referred to as "CATS", as defined in the Illinois Municipal Code, as amended.~~

(Source: P.A. 94-623, eff. 8-18-05.)

(220 ILCS 50/2.6)

Sec. 2.6. Emergency locate request. "Emergency locate request" means a locate request for any condition constituting an imminent danger to life, health, or property, or a utility service outage, and which requires immediate repair or action before the expiration of 48 hours.

(Source: P.A. 92-179, eff. 7-1-02.)

(220 ILCS 50/4) (from Ch. 111 2/3, par. 1604)

Sec. 4. Required activities. Every person who engages in nonemergency excavation or demolition shall:

(a) take reasonable action to inform himself of the location of any underground utility facilities ~~or CATS facilities~~ in and near the area for which such operation is to be conducted;

(b) plan the excavation or demolition to avoid or minimize interference with underground utility facilities ~~or CATS facilities~~ within the tolerance zone by utilizing such precautions that include, but are not limited to, hand excavation, vacuum excavation methods, and visually inspecting the excavation while in progress until clear of the existing marked facility;

(c) if practical, use white paint, flags, stakes, or both, to outline the dig site;

(d) provide notice not less than 48 hours but no more than 14 calendar days in advance of the start of the excavation or demolition to the owners or operators of the underground utility facilities ~~or CATS facilities~~ in and near the excavation or demolition area through the State-Wide One-Call Notice System or, in the case of nonemergency excavation or demolition within the boundaries of a municipality of at least one million persons which operates its own one-call notice system, through the one-call notice system which operates in that municipality .

At a minimum, the notice required under this subsection (d) shall provide:

(1) the person's name address, phone number at which a person can be reached, and fax number, if available;

(2) the start date and time if the planned excavation or demolition;

(3) all counties, cities, or townships, or any combination thereof, where the proposed excavation shall take place;

(4) the address at which the excavation or demolition shall take place;

(5) the type and extent of the work involved; and

(6) the section or quarter sections when the information in items (1) through (5) of this subsection (d) does not allow the State-Wide One-Call Notice System to determine the appropriate excavation or demolition site. This item (6) does not apply to residential property owners;

(e) provide, during and following excavation or demolition, such support for existing underground utility facilities ~~or CATS facilities~~ in and near the excavation or demolition area as may be reasonably necessary for the protection of such facilities unless otherwise agreed to by the owner or operator of the underground facility ~~or CATS facility~~;

(f) backfill all excavations in such manner and with such materials as may be reasonably necessary for the protection of existing underground utility facilities ~~or CATS facilities~~ in and near the

excavation or demolition area; ~~and~~

(g) after ~~After~~ February 29, 2004, when the excavation or demolition project will extend past 28 calendar days from the date of the original notice provided under clause (d), the excavator shall provide a subsequent notice to the owners or operators of the underground utility facilities ~~or CATS facilities~~ in and near the excavation or demolition area through the State-Wide One-Call Notice System or, in the case of excavation or demolition within the boundaries of a municipality having a population of at least 1,000,000 inhabitants that operates its own one-call notice system, through the one-call notice system that operates in that municipality informing utility owners and operators that additional time to complete the excavation or demolition project will be required. The notice will provide the excavator with an additional 28 calendar days from the date of the subsequent notification to continue or complete the excavation or demolition project ; ~~.~~

(h) exercise due care at all times to protect underground utility facilities. If, after proper notification through the State-Wide One-Call Notice System and upon arrival at the site of the proposed excavation, the excavator observes clear evidence of the presence of an unmarked or incompletely marked utility in the area of the proposed excavation, the excavator shall not begin excavating until all affected facilities have been marked or 2 hours after an additional call is made to the State-Wide One-Call Notice System for the area. The owner or operator of the utility shall respond within 2 hours of the excavator's call to the State-Wide One-Call Notice System; and

(i) when factors, including, but not limited to, weather, construction activity, or vandalism, at the excavation site have caused the utility markings to become faded or indistinguishable, the excavator shall provide an additional notice through the State-Wide One-Call Notice System requesting that only the affected areas where excavation or demolition is to continue be re-marked. Facility owners or operators must respond to the notice to re-mark according to the requirements of Section 10 of this Act.

~~At a minimum, the notice required under clause (d) shall provide:~~

~~(1) the person's name, address, and (i) phone number at which a person can be reached and (ii) fax number, if available;~~

~~(2) the start date of the planned excavation or demolition;~~

~~(3) the address at which the excavation or demolition will take place;~~

~~(4) the type and extent of the work involved; and~~

~~(5) section/quarter sections when the above information does not allow the State-Wide One-Call Notice System to determine the appropriate geographic section/quarter sections. This item (5) does not apply to residential property owners.~~

Nothing in this Section prohibits the use of any method of excavation if conducted in a manner that would avoid interference with underground utility facilities ~~or CATS facilities~~.

(Source: P.A. 93-430, eff. 8-5-03; 94-623, eff. 8-18-05.)

(220 ILCS 50/4.1 new)

Sec. 4.1. Use of joint meet.

(a) If a person engaged in excavation elects to use a joint meet, the joint meet requires a minimum of 48 hours' advance notice. After a joint meet, the owners or operators of underground utility facilities must respond within 48 hours or by the date and time agreed to in writing at the joint meet, whichever is later.

At a minimum, the information required to be given to the State-Wide One-Call Notice System at the time the joint meet is requested shall include the following:

(1) the requester's name, address, phone number at which a person can be reached, and fax number, if available;

(2) the start date and time of the joint meet;

(3) the address at which the joint meet will take place;

(4) the type of work involved;

(5) all counties, cities, or townships where the proposed excavation shall take place; and

(6) the street names involved in the project; or the north, south, east, and west boundaries of the project; or the section or quarter sections, or both, of the project.

(b) Persons using the joint meet process are encouraged to the refer to the JULIE Excavator Manual for additional information on the use of a joint meet request.

(220 ILCS 50/4.2 new)

Sec. 4.2. Design stage request.

(a) Beginning on January 1, 2009, persons desiring to utilize the design stage request process are required to complete and submit the "Design Stage Registration Form & Confidentiality Agreement" through the State-Wide One-Call Notice System prior to initiating a design stage request.

(b) In connection with any design stage request, designers shall comply with the following:

(1) Follow the guidelines set forth in CJIASCE 3 8-02, also known as the "Standard Guidelines for the Collection and Depiction of Existing Subsurface Utility Data".

(2) Make a reasonable effort to prepare the construction drawings to minimize interference with existing and proposed underground utility facilities in the construction area.

(3) Provide the following information to the State Wide One-Call Notice System at the time of the design stage request:

(A) the name, address, and telephone number, either office or cell, of the person making the request;

(B) the name, address, and telephone number of the business requesting the facility location information;

(C) the approximate date when the facility information is required;

(D) the type and extent of the informational request;

(E) the location of the required facility information, specified as follows:

(i) a specific street or rural address, which has a numbered address on a marked street or avenue that is publicly recorded; or

(ii) latitude and longitude coordinates or a specific quarter section by tier, range, section, and quarter section; and

(F) the reason for requesting the facility data.

(4) Provide site-specific information to qualified bidders of the project.

(c) Designers are encouraged to refer to the JULIE Excavator Manual for other information prior to initiating a design stage request.

(220 ILCS 50/4.3 new)

Sec. 4.3. Design stage request response. The State-Wide One-Call Notice System shall provide designers with engineering contact information for the owners or operators in the area of the design stage projects. Owners or operators shall respond to a design stage request upon notification by the designer to the State Wide One-Call Notification System of a design stage request. The facility owner or operator shall provide information regarding the location and type of facilities at the site based on the best information currently available to the facility owner or operator.

(220 ILCS 50/4.4 new)

Sec. 4.4. Contact is made. After contact is made with the owner or operator by the designer, the owner or operator shall respond in one of the following 3 ways within 15 working days, excluding Saturdays, Sundays, and State-Wide One-Call Notification System-recognized holidays:

(1) actual field location shall be performed at the job site;

(2) drawings or prints, or both, of the location of the buried facilities at the proposed site shall be provided; or

(3) the designer may be requested to send drawings or prints, or both, of the job site to the member.

(220 ILCS 50/4.5 new)

Sec. 4.5. Owner or operator request. If the owner or operator requests drawings of the job site, then the owner or operator shall mark existing facilities on drawings or prints, or both, or provide copies of the facility owner's record information and return the documents to the designer.

(220 ILCS 50/6) (from Ch. 111 2/3, par. 1606)

Sec. 6. Emergency excavation or demolition.

(a) Every person who engages in emergency excavation or demolition outside of the boundaries of a municipality of at least one million persons which operates its own one-call notice system shall take all reasonable precautions to avoid or minimize interference between the emergency work and existing underground utility facilities ~~or CATS facilities~~ in and near the excavation or demolition area, through the State-Wide One-Call Notice System, and shall notify, as far in advance as possible, the owners or operators of such underground utility facilities ~~or CATS facilities~~ in and near the emergency excavation or demolition area, through the State-Wide One-Call Notice System. At a minimum, the notice required under this subsection (a) shall provide:

(1) the person's name, address, and (i) phone number at which a person can be reached and (ii) fax number, if available;

(2) the start date of the planned emergency excavation or demolition;

(3) the address at which the excavation or demolition will take place; and

(4) the type and extent of the work involved.

There is a wait time of 2 hours or the date and time requested on the notice, whichever is longer, after an emergency locate notification request is made through the State-Wide One-Call Notice System. If the conditions at the site dictate an earlier start than the required wait time, it is the responsibility of the excavator to demonstrate that site conditions warranted this earlier start time.

Upon notice by the person engaged in emergency excavation or demolition, the owner or operator of an underground utility facility ~~or CATS facility~~ in or near the excavation or demolition area shall communicate with the person engaged in emergency excavation or demolition within 2 hours or by the date and time requested on the notice, whichever is longer by (1) marking the approximate location of underground facilities; (2) advising the person excavating that their underground facilities are not in conflict with the emergency excavation; or (3) notifying the person excavating that the owner or operator shall be delayed in marking because of conditions as referenced in subsection (g) of Section 11 of this Act.

The notice by the owner or operator to the person engaged in emergency excavation or demolition may be provided by phone or phone message or by marking the excavation or demolition area. The owner or operator has discharged the owner's or operator's obligation to provide notice under this Section if the owner or operator attempts to provide notice by telephone but is unable to do so because the person engaged in the emergency excavation or demolition does not answer his or her telephone or does not have an answering machine or answering service to receive the telephone call. If the owner or operator attempts to provide notice by telephone or by facsimile but receives a busy signal, that attempt shall not discharge the owner or operator from the obligation to provide notice under this Section.

(b) Every person who engages in emergency excavation or demolition within the boundaries of a municipality of at least one million persons which operates its own one-call notice system shall take all reasonable precautions to avoid or minimize interference between the emergency work and existing underground utility facilities ~~or CATS facilities~~ in and near the excavation or demolition area, through the municipality's one-call notice system, and shall notify, as far in advance as possible, the owners and operators of underground utility facilities ~~or CATS facilities~~ in and near the emergency excavation or demolition area, through the municipality's one-call notice system.

(c) The reinstallation of traffic control devices shall be deemed an emergency for purposes of this Section.

(d) An open cut utility locate shall be deemed an emergency for purposes of this Section.

(Source: P.A. 94-623, eff. 8-18-05.)

(220 ILCS 50/7) (from Ch. 111 2/3, par. 1607)

Sec. 7. Damage or dislocation. In the event of any damage to or dislocation of any underground utility facilities ~~or CATS facilities~~ in connection with any excavation or demolition, emergency or nonemergency, the person responsible for the excavation or demolition operations shall immediately cease excavation in the area of the damage when the damaged facility is a threat to life or property or if otherwise required by law and notify the affected utility and the State-Wide One-Call Notice System or, in the case of damage or dislocation in connection with any excavation or demolition within the boundaries of a municipality having a population of at least 1,000,000 inhabitants that operates its own one-call notice system, notify the affected utility and the one-call notice system that operates in that municipality. The person responsible for the excavation or demolition shall not attempt to repair, clamp, or constrict the damaged utility facility unless directed to do so by the utility facility owner or operator. In the event of any damage to any underground utility facility that results in the escape of any flammable, toxic, or corrosive gas or liquid, the person responsible for the excavation or demolition shall call 9-1-1 and notify authorities of the damage. Owners and operators of underground utility facilities that are damaged and the excavator involved shall work in a cooperative and expeditious manner to repair the affected utility.

(Source: P.A. 92-179, eff. 7-1-02; 93-430, eff. 8-5-03.)

(220 ILCS 50/10) (from Ch. 111 2/3, par. 1610)

Sec. 10. Record of notice; marking of facilities. Upon notice by the person engaged in excavation or demolition, the person owning or operating underground utility facilities ~~or CATS facilities~~ in or near the excavation or demolition area shall cause a written record to be made of the notice and shall mark, within 48 hours of receipt of notice or by the requested date and time indicated on the notice, whichever is later,, the approximate locations of such facilities so as to enable the person excavating or demolishing to establish the location of the underground utility facilities ~~or CATS facilities~~. Owners and operators of underground sewer facilities that are located outside the boundaries of a municipality having a population of at least 1,000,000 inhabitants shall be required to respond and mark the approximate location of those sewer facilities when the excavator indicates, in the notice required in Section 4, that the excavation or demolition project will exceed a depth of 7 feet. "Depth", in this case, is defined as the distance measured vertically from the surface of the ground to the top of the sewer facility. Owners and operators of underground sewer facilities that are located outside the boundaries of a municipality having a population of at least 1,000,000 inhabitants shall be required at all times to locate the approximate location of those sewer facilities when: (1) directional boring is the indicated type of excavation work

being performed within the notice; (2) the underground sewer facilities owned are non-gravity, pressurized force mains; or (3) the excavation indicated will occur in the immediate proximity of known underground sewer facilities that are less than 7 feet deep. Owners or operators of underground sewer facilities that are located outside the boundaries of a municipality having a population of at least 1,000,000 inhabitants shall not hold an excavator liable for damages that occur to sewer facilities that were not required to be marked under this Section, provided that prompt notice of the damage is made to the State-Wide One-Call Notice System and the utility owner as required in Section 7.

All persons subject to the requirements of this Act shall plan and conduct their work consistent with reasonable business practices. Conditions may exist making it unreasonable to request that locations be marked within 48 hours or by the requested date and time indicated on the notice, whichever is later. It is unreasonable to request owners and operators of underground utility facilities ~~and CATS facilities~~ to locate all of their facilities in an affected area upon short notice in advance of a large or extensive nonemergency project, or to request extensive locates in excess of a reasonable excavation or demolition work schedule, or to request locates under conditions where a repeat request is likely to be made because of the passage of time or adverse job conditions. Owners and operators of underground utility facilities ~~and CATS facilities~~ must reasonably anticipate seasonal fluctuations in the number of locate requests and staff accordingly.

If a person owning or operating underground utility facilities ~~or CATS facilities~~ receives a notice under this Section but does not own or operate any underground utility facilities ~~or CATS facilities~~ within the proposed excavation or demolition area described in the notice, that person, within 48 hours or by the requested date and time indicated on the notice, whichever is later, after receipt of the notice, shall so notify the person engaged in excavation or demolition who initiated the notice, unless the person who initiated the notice expressly waives the right to be notified that no facilities are located within the excavation or demolition area. The notification by the owner or operator of underground utility facilities ~~or CATS facilities~~ to the person engaged in excavation or demolition may be provided in any reasonable manner including, but not limited to, notification in any one of the following ways: by face-to-face communication; by phone or phone message; by facsimile; by posting in the excavation or demolition area; or by marking the excavation or demolition area. The owner or operator of those facilities has discharged the owner's or operator's obligation to provide notice under this Section if the owner or operator attempts to provide notice by telephone or by facsimile, if the person has supplied a facsimile number, but is unable to do so because the person engaged in the excavation or demolition does not answer his or her telephone or does not have an answering machine or answering service to receive the telephone call or does not have a facsimile machine in operation to receive the facsimile transmission. If the owner or operator attempts to provide notice by telephone or by facsimile but receives a busy signal, that attempt shall not serve to discharge the owner or operator of the obligation to provide notice under this Section.

A person engaged in excavation or demolition may expressly waive the right to notification from the owner or operator of underground utility facilities ~~or CATS facilities~~ that the owner or operator has no facilities located in the proposed excavation or demolition area. Waiver of notice is only permissible in the case of regular or nonemergency locate requests. The waiver must be made at the time of the notice to the State-Wide One-Call Notice System. A waiver made under this Section is not admissible as evidence in any criminal or civil action that may arise out of, or is in any way related to, the excavation or demolition that is the subject of the waiver.

For the purposes of this Act, underground facility operators may utilize a combination of flags, stakes, and paint when possible on non-paved surfaces and when dig site and seasonal conditions warrant. If the approximate location of an underground utility facility ~~or CATS facility~~ is marked with stakes or other physical means, the following color coding shall be employed:

Underground Facility	Identification Color
Facility Owner or Agent Use Only	
Electric Power, Distribution and Transmission	Safety Red
Municipal Electric Systems	Safety Red
Gas Distribution and Transmission	High Visibility Safety Yellow

Oil Distribution and Transmission.....	High Visibility Safety Yellow
Telephone and Telegraph Systems.....	Safety Alert Orange
Community Antenna Television Systems.....	Safety Alert Orange
Water Systems.....	Safety Precaution Blue
Sewer Systems.....	Safety Green
Non-potable Water and Slurry Lines.....	Safety Purple

Excavator Use Only

Temporary Survey.....	Safety Pink
Proposed Excavation.....	Safety White (Black when snow is on the ground)

(Source: P.A. 93-430, eff. 8-5-03; 94-623, eff. 8-18-05.)

(220 ILCS 50/11) (from Ch. 111 2/3, par. 1611)

Sec. 11. Penalties; liability; fund.

(a) Every person who, while engaging in excavation or demolition, wilfully fails to comply with the Act by failing to provide the notice to the owners or operators of the underground facilities ~~or CATS facility~~ near the excavation or demolition area through the State-Wide One-Call Notice System as required by Section 4 or 6 of this Act shall be subject to a penalty of up to $5,000 for each separate offense and shall be liable for the damage caused to the owners or operators of the facility. Every person who fails to provide notice and willfully fails to comply with other provisions of this Act shall be subject to additional penalties of up to $2,500 for each separate offense and shall be liable for the damage caused to the owners or operators of the facility.

(b) Every person who~~, while engaging in excavation or demolition,~~ has provided the notice to the owners or operators of the underground utility facilities ~~or CATS facilities~~ in and near the excavation or demolition area through the State-Wide One-Call Notice System as required by Section 4 or 6 of this Act, but otherwise wilfully fails to comply with this Act, shall be subject to a penalty of up to $2,500 for each separate offense and shall be liable for the damage caused to the owners or operators of the facility.

(c) Every person who, while engaging in excavation or demolition, has provided the notice to the owners or operators of the underground utility facilities ~~or CATS facilities~~ in and near the excavation or demolition area through the State-Wide One-Call Notice System as required by Section 4 or 6 of this Act, but otherwise, while acting reasonably, damages any underground utility facilities ~~or CATS facilities~~, shall not be subject to a penalty, but shall be liable for the damage caused to the owners or operators of the facility provided the underground utility facility ~~or CATS facility~~ is properly marked as provided in Section 10 of this Act.

(d) Every person who~~, while engaging in excavation or demolition,~~ provides notice to the owners or operators of the underground utility facilities ~~or CATS facilities~~ through the State-Wide One-Call Notice System as an emergency locate request and the locate request is not an emergency locate request as defined in Section 2.6 of this Act shall be subject to a penalty of up to $2,500 for each separate offense.

(e) Owners and operators of underground utility facilities who willfully fail to comply with this Act by a failure to respond or mark the approximate location of an underground utility as required by subsection (h) of Section 4, subsection (a) of Section 6, or Section 10 of this Act after being notified of planned excavation or demolition through the State-Wide One-Call Notice System, shall be subject to a penalty of up to $5,000 for each separate offense. ~~Owners and operators of underground utility facilities or CATS facilities (i) who wilfully fail to comply with this Act by a failure to mark the location of an underground utility or CATS facility or a failure to provide notice that facilities are not within the proposed excavation or demolition area as required in Section 10, or (ii) who willfully fail to respond as required in Section 6 to an emergency request, after being notified of planned excavation or demolition through the State-Wide One-Call Notice System, shall be subject to a penalty of up to $5,000 for each separate offense resulting from the failure to mark an underground utility facility or CATS facility.~~

(f) As provided in Section 3 of this Act, all owners or operators of underground utility facilities ~~or CATS facilities~~ who fail to join the State-Wide One-Call Notice System by January 1, 2003 shall be subject to a penalty of $100 per day for each separate offense. Every day an owner or operator fails to join the State-Wide One-Call Notice System is a separate offense. This subsection (f) does not apply to utilities operating facilities ~~or CATS facilities~~ exclusively within the boundaries of a municipality with a

population of at least 1,000,000 persons.

(g) No owner or operator of underground utility facilities ~~or CATS facilities~~ shall be subject to a penalty where a delay in marking or a failure to mark or properly mark the location of an underground utility ~~or CATS facility~~ is caused by conditions beyond the reasonable control of such owner or operator.

(h) Any person who is neither an agent, employee, or authorized locating contractor of the owner or operator of the underground utility facility ~~or CATS facility~~ nor an excavator involved in the excavation activity who removes, alters, or otherwise damages markings, flags, or stakes used to mark the location of an underground utility ~~or CATS facility~~ other than during the course of the excavation for which the markings were made or before completion of the project shall be subject to a penalty up to $1,000 for each separate offense.

(i) (Blank). ~~The excavator shall exercise due care at all times to protect underground utility facilities and CATS facilities. If, after proper notification through the State-Wide One-Call Notice System and upon arrival at the site of a proposed excavation, the excavator observes clear evidence of the presence of an unmarked utility or CATS facility in the area of the proposed excavation, the excavator shall not begin excavating until 2 hours after an additional call is made to the State-Wide One-Call Notice System for the area. The operator of the utility or CATS facility shall respond within 2 hours of the excavator's call to the State-Wide One-Call Notice System.~~

(j) The Illinois Commerce Commission shall have the power and jurisdiction to, and shall, enforce the provisions of this Act. The Illinois Commerce Commission may impose administrative penalties as provided in this Section. The Illinois Commerce Commission may promulgate rules and develop enforcement policies in the manner provided by the Public Utilities Act in order to implement compliance with this Act. When a penalty is warranted, the following criteria shall be used in determining the magnitude of the penalty:

(1) gravity of noncompliance;

(2) culpability of offender;

(3) history of noncompliance for the 18 months prior to the date of the incident; however, when determining non-compliance the alleged violator's roles as operator or owner and the person engaged in excavating shall be treated separately;

(4) ability to pay penalty;

(5) show of good faith of offender;

(6) ability to continue business; and

(7) other special circumstances.

(k) There is hereby created in the State treasury a special fund to be known as the Illinois Underground Utility Facilities Damage Prevention Fund. All penalties recovered in any action under this Section shall be paid into the Fund and shall be distributed annually as a grant to the State-Wide One-Call Notice System to be used in safety and informational programs to reduce the number of incidents of damage to underground utility facilities ~~and CATS facilities~~ in Illinois. The distribution shall be made during January of each calendar year based on the balance in the Illinois Underground Utility Facilities Damage Prevention Fund as of December 31 of the previous calendar year. In all such actions under this Section, the procedure and rules of evidence shall conform with the Code of Civil Procedure, and with rules of courts governing civil trials.

(l) The Illinois Commerce Commission shall establish an Advisory Committee consisting of a representative from each of the following: utility operator, JULIE, excavator, municipality, and the general public. The Advisory Committee shall serve as a peer review panel for any contested penalties resulting from the enforcement of this Act.

The members of the Advisory Committee shall be immune, individually and jointly, from civil liability for any act or omission done or made in performance of their duties while serving as members of such Advisory Committee, unless the act or omission was the result of willful and wanton misconduct.

(m) If, after the Advisory Committee has considered a particular contested penalty and performed its review functions under this Act and the Commission's rules, there remains a dispute as to whether the Commission should impose a penalty under this Act, the matter shall proceed in the manner set forth in Article X of the Public Utilities Act, including the provisions governing judicial review.

(Source: P.A. 94-623, eff. 8-18-05.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Wilhelmi, **Senate Bill No. 2129**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Viverito
Dahl	Jacobs	Pankau	Watson
DeLeo	Jones, J.	Peterson	Wilhelmi
Delgado	Koehler	Radogno	Mr. President
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Watson, **Senate Bill No. 2148**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Viverito
Dahl	Jacobs	Pankau	Watson
DeLeo	Jones, J.	Peterson	Wilhelmi

Delgado	Koehler	Radogno	Mr. President
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Harmon, **Senate Bill No. 2231** was recalled from the order of third reading to the order of second reading.

Senator Harmon offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2231

AMENDMENT NO. 1. Amend Senate Bill 2231 as follows:

on page 21, immediately below line 6, by inserting the following:

"Alcoholic liquors may be delivered to and sold at the Sikia Restaurant, Kennedy King College Campus, located at 740 West 63rd Street, Chicago, and at the Food Services in the Great Hall/Washburne Culinary Institute Department facility, Kennedy King College Campus, located at 740 West 63rd Street, Chicago, owned by or under the control of City Colleges of Chicago, Illinois Community College District No. 508.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Harmon, **Senate Bill No. 2231**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 54; Nays None; Present 2.

The following voted in the affirmative:

Bivins	Forby	Lauzen	Rutherford
Bomke	Frerichs	Lightford	Sandoval
Bond	Garrett	Link	Schoenberg
Brady	Haine	Maloney	Silverstein
Burzynski	Halvorson	Martinez	Steans
Clayborne	Harmon	Meeks	Sullivan
Collins	Hendon	Millner	Syverson
Cronin	Holmes	Munoz	Trotter
Crotty	Hultgren	Murphy	Viverito
Dahl	Hunter	Noland	Watson
DeLeo	Jacobs	Pankau	Wilhelmi
Delgado	Jones, J.	Peterson	Mr. President
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Righter	

The following voted present:

Raoul
Risinger

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Cullerton, **Senate Bill No. 2232**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 57; Nays 1.

The following voted in the affirmative:

Althoff	Dillard	Lightford	Risinger
Bivins	Forby	Link	Rutherford
Bomke	Frerichs	Luechtefeld	Sandoval
Bond	Haine	Maloney	Silverstein
Brady	Halvorson	Martinez	Steans
Burzynski	Harmon	Meeks	Sullivan
Clayborne	Hendon	Millner	Syverson
Collins	Holmes	Munoz	Trotter
Cronin	Hultgren	Murphy	Viverito
Crotty	Hunter	Noland	Watson
Cullerton	Jacobs	Pankau	Wilhelmi
Dahl	Jones, J.	Peterson	Mr. President
DeLeo	Koehler	Radogno	
Delgado	Kotowski	Raoul	
Demuzio	Lauzen	Righter	

The following voted in the negative:

Garrett

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Haine, **Senate Bill No. 2254** was recalled from the order of third reading to the order of second reading.

Senator Haine offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2254

AMENDMENT NO. 3. Amend Senate Bill 2254, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Rights of Crime Victims and Witnesses Act is amended by changing Sections 3 and 4.5 as follows:

(725 ILCS 120/3) (from Ch. 38, par. 1403)

(Text of Section before amendment by P.A. 95-591)

Sec. 3. The terms used in this Act, unless the context clearly requires otherwise, shall have the

following meanings:

(a) "Crime victim" and "victim" mean ~~means~~ (1) a person physically injured in this State as a result of a violent crime perpetrated or attempted against that person or (2) a person who suffers injury to or loss of property as a result of a violent crime perpetrated or attempted against that person or (3) a single representative who may be the spouse, parent, child or sibling of a person killed as a result of a violent crime perpetrated against the person killed or the spouse, parent, child or sibling of any person granted rights under this Act who is physically or mentally incapable of exercising such rights, except where the spouse, parent, child or sibling is also the defendant or prisoner or (4) any person against whom a violent crime has been committed or (5) any person who has suffered personal injury as a result of a violation of Section 11-501 of the Illinois Vehicle Code, or of a similar provision of a local ordinance, or of Section 9-3 of the Criminal Code of 1961, as amended or (6) in proceedings under the Juvenile Court Act of 1987, both parents of a deceased minor who is a crime victim . ~~;~~

(b) "Witness" means any person who personally observed the commission of a violent crime and who will testify on behalf of the State of Illinois in the criminal prosecution of the violent crime. ~~;~~

(c) "Violent Crime" means any felony in which force or threat of force was used against the victim, or any offense involving sexual exploitation, sexual conduct or sexual penetration, domestic battery, violation of an order of protection, stalking, or any misdemeanor which results in death or great bodily harm to the victim or any violation of Section 9-3 of the Criminal Code of 1961, or Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, if the violation resulted in personal injury or death, and includes any action committed by a juvenile that would be a violent crime if committed by an adult. For the purposes of this paragraph, "personal injury" shall include any Type A injury as indicated on the traffic accident report completed by a law enforcement officer that requires immediate professional attention in either a doctor's office or medical facility. A type A injury shall include severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene. ~~;~~

(d) "Sentencing Hearing" means any hearing where a sentence is imposed by the court on a convicted defendant and includes hearings conducted pursuant to Sections 5-6-4, 5-6-4.1, 5-7-2 and 5-7-7 of the Unified Code of Corrections except those cases in which both parties have agreed to the imposition of a specific sentence.

(e) "Court proceedings" includes the preliminary hearing, any hearing the effect of which may be the release of the defendant from custody or to alter the conditions of bond, the trial, sentencing hearing, notice of appeal, any modification of sentence, probation revocation hearings or parole hearings.

(f) "Concerned citizen" includes relatives of the victim, friends of the victim, witnesses to the crime, or any other person associated with the victim or prisoner.

(Source: P.A. 94-271, eff. 1-1-06; revised 11-16-07.)

(Text of Section after amendment by P.A. 95-591)

Sec. 3. The terms used in this Act, unless the context clearly requires otherwise, shall have the following meanings:

(a) "Crime victim" and "victim" mean ~~means~~ (1) a person physically injured in this State as a result of a violent crime perpetrated or attempted against that person or (2) a person who suffers injury to or loss of property as a result of a violent crime perpetrated or attempted against that person or (3) a single representative who may be the spouse, parent, child or sibling of a person killed as a result of a violent crime perpetrated against the person killed or the spouse, parent, child or sibling of any person granted rights under this Act who is physically or mentally incapable of exercising such rights, except where the spouse, parent, child or sibling is also the defendant or prisoner or (4) any person against whom a violent crime has been committed or (5) any person who has suffered personal injury as a result of a violation of Section 11-501 of the Illinois Vehicle Code, or of a similar provision of a local ordinance, or of Section 9-3 of the Criminal Code of 1961, as amended or (6) in proceedings under the Juvenile Court Act of 1987, both parents, legal guardians, foster parents, or a single adult representative of a minor or disabled person who is a crime victim . ~~;~~

(b) "Witness" means any person who personally observed the commission of a violent crime and who will testify on behalf of the State of Illinois in the criminal prosecution of the violent crime. ~~;~~

(c) "Violent Crime" means any felony in which force or threat of force was used against the victim, or any offense involving sexual exploitation, sexual conduct or sexual penetration, domestic battery, violation of an order of protection, stalking, or any misdemeanor which results in death or great bodily harm to the victim or any violation of Section 9-3 of the Criminal Code of 1961, or Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, if the violation resulted in personal injury or death, and includes any action committed by a juvenile that would be a violent crime if

committed by an adult. For the purposes of this paragraph, "personal injury" shall include any Type A injury as indicated on the traffic accident report completed by a law enforcement officer that requires immediate professional attention in either a doctor's office or medical facility. A type A injury shall include severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene. ;

(d) "Sentencing Hearing" means any hearing where a sentence is imposed by the court on a convicted defendant and includes hearings conducted pursuant to Sections 5-6-4, 5-6-4.1, 5-7-2 and 5-7-7 of the Unified Code of Corrections except those cases in which both parties have agreed to the imposition of a specific sentence.

(e) "Court proceedings" includes the preliminary hearing, any hearing the effect of which may be the release of the defendant from custody or to alter the conditions of bond, the trial, sentencing hearing, notice of appeal, any modification of sentence, probation revocation hearings or parole hearings.

(f) "Concerned citizen" includes relatives of the victim, friends of the victim, witnesses to the crime, or any other person associated with the victim or prisoner.

(Source: P.A. 94-271, eff. 1-1-06; 95-591, eff. 6-1-08; revised 11-16-07.)

(725 ILCS 120/4.5)

Sec. 4.5. Procedures to implement the rights of crime victims. To afford crime victims their rights, law enforcement, prosecutors, judges and corrections will provide information, as appropriate of the following procedures:

(a) At the request of the crime victim, law enforcement authorities investigating the case shall provide notice of the status of the investigation, except where the State's Attorney determines that disclosure of such information would unreasonably interfere with the investigation, until such time as the alleged assailant is apprehended or the investigation is closed.

(b) The office of the State's Attorney:

(1) shall provide notice of the filing of information, the return of an indictment by which a prosecution for any violent crime is commenced, or the filing of a petition to adjudicate a minor as a delinquent for a violent crime;

(2) shall provide notice of the date, time, and place of trial;

(3) or victim advocate personnel shall provide information of social services and financial assistance available for victims of crime, including information of how to apply for these services and assistance;

(4) shall assist in having any stolen or other personal property held by law enforcement authorities for evidentiary or other purposes returned as expeditiously as possible, pursuant to the procedures set out in Section 115-9 of the Code of Criminal Procedure of 1963;

(5) or victim advocate personnel shall provide appropriate employer intercession services to ensure that employers of victims will cooperate with the criminal justice system in order to minimize an employee's loss of pay and other benefits resulting from court appearances;

(6) shall provide information whenever possible, of a secure waiting area during court proceedings that does not require victims to be in close proximity to defendant or juveniles accused of a violent crime, and their families and friends;

(7) shall provide notice to the crime victim of the right to have a translator present at all court proceedings;

(8) in the case of the death of a person, which death occurred in the same transaction or occurrence in which acts occurred for which a defendant is charged with an offense, shall notify the spouse, parent, child or sibling of the decedent of the date of the trial of the person or persons allegedly responsible for the death;

(9) shall inform the victim of the right to have present at all court proceedings, subject to the rules of evidence, an advocate or other support person of the victim's choice, and the right to retain an attorney, at the victim's own expense, who, upon written notice filed with the clerk of the court and State's Attorney, is to receive copies of all notices, motions and court orders filed thereafter in the case, in the same manner as if the victim were a named party in the case; and

(10) at the sentencing hearing shall make a good faith attempt to explain the minimum amount of time during which the defendant may actually be physically imprisoned. The Office of the State's Attorney shall further notify the crime victim of the right to request from the Prisoner Review Board information concerning the release of the defendant under subparagraph (d)(1) of this Section; and

(11) shall request restitution at sentencing and shall consider restitution in any plea negotiation, as provided by law.

(c) At the written request of the crime victim, the office of the State's Attorney shall:

(1) provide notice a reasonable time in advance of the following court proceedings: preliminary hearing, any hearing the effect of which may be the release of defendant from custody, or to alter the conditions of bond and the sentencing hearing. The crime victim shall also be notified of the cancellation of the court proceeding in sufficient time, wherever possible, to prevent an unnecessary appearance in court;

(2) provide notice within a reasonable time after receipt of notice from the custodian, of the release of the defendant on bail or personal recognizance or the release from detention of a minor who has been detained for a violent crime;

(3) explain in nontechnical language the details of any plea or verdict of a defendant, or any adjudication of a juvenile as a delinquent for a violent crime;

(4) where practical, consult with the crime victim before the Office of the State's Attorney makes an offer of a plea bargain to the defendant or enters into negotiations with the defendant concerning a possible plea agreement, and shall consider the written victim impact statement, if prepared prior to entering into a plea agreement;

(5) provide notice of the ultimate disposition of the cases arising from an indictment or an information, or a petition to have a juvenile adjudicated as a delinquent for a violent crime;

(6) provide notice of any appeal taken by the defendant and information on how to contact the appropriate agency handling the appeal;

(7) provide notice of any request for post-conviction review filed by the defendant under Article 122 of the Code of Criminal Procedure of 1963, and of the date, time and place of any hearing concerning the petition. Whenever possible, notice of the hearing shall be given in advance;

(8) forward a copy of any statement presented under Section 6 to the Prisoner Review Board to be considered by the Board in making its determination under subsection (b) of Section 3-3-8 of the Unified Code of Corrections.

(d) (1) The Prisoner Review Board shall inform a victim or any other concerned citizen, upon written request, of the prisoner's release on parole, mandatory supervised release, electronic detention, work release, international transfer or exchange, or by the custodian of the discharge of any individual who was adjudicated a delinquent for a violent crime from State custody and by the sheriff of the appropriate county of any such person's final discharge from county custody. The Prisoner Review Board, upon written request, shall provide to a victim or any other concerned citizen a recent photograph of any person convicted of a felony, upon his or her release from custody. The Prisoner Review Board, upon written request, shall inform a victim or any other concerned citizen when feasible at least 7 days prior to the prisoner's release on furlough of the times and dates of such furlough. Upon written request by the victim or any other concerned citizen, the State's Attorney shall notify the person once of the times and dates of release of a prisoner sentenced to periodic imprisonment. Notification shall be based on the most recent information as to victim's or other concerned citizen's residence or other location available to the notifying authority. ~~For purposes of this paragraph (1) of subsection (d), "concerned citizen" includes relatives of the victim, friends of the victim, witnesses to the crime, or any other person associated with the victim or prisoner.~~

(2) When the defendant has been committed to the Department of Human Services pursuant to Section 5-2-4 or any other provision of the Unified Code of Corrections, the victim may request to be notified by the releasing authority of the defendant's discharge from State custody.

(3) In the event of an escape from State custody, the Department of Corrections or the Department of Juvenile Justice immediately shall notify the Prisoner Review Board of the escape and the Prisoner Review Board shall notify the victim. The notification shall be based upon the most recent information as to the victim's residence or other location available to the Board. When no such information is available, the Board shall make all reasonable efforts to obtain the information and make the notification. When the escapee is apprehended, the Department of Corrections or the Department of Juvenile Justice immediately shall notify the Prisoner Review Board and the Board shall notify the victim.

(4) The victim of the crime for which the prisoner has been sentenced shall receive reasonable written notice not less than 30 ~~15~~ days prior to the parole hearing and may submit, in writing, on film, videotape or other electronic means or in the form of a recording or in person at the parole hearing or if a victim of a violent crime, by calling the toll-free number established in subsection (f) of this Section, information for consideration by the Prisoner Review Board. The victim shall be notified within 7 days after the prisoner has been granted parole and shall be informed of the right to inspect the registry of parole decisions, established under subsection (g) of Section 3-3-5 of the Unified Code of Corrections. The provisions of this paragraph (4) are subject to the Open Parole Hearings Act. When the victim, concerned citizens, or the State's Attorney has opposed parole for an

inmate sentenced under the law in effect prior to February 1, 1978, the additional provision in paragraph (5.1) applies.

(5) If a statement is presented under Section 6, the Prisoner Review Board shall inform the victim of any order of discharge entered by the Board pursuant to Section 3-3-8 of the Unified Code of Corrections.

(5.1) If a victim or concerned citizen has registered an objection to parole of an inmate sentenced under the law in effect prior to February 1, 1978, the victim or concerned citizen shall receive a copy of the most recent written submissions that the inmate filed in requesting parole. The Prisoner Review Board may satisfy this requirement by tendering these documents to the State's Attorney's Office that has submitted objections.

(6) At the written request of the victim of the crime for which the prisoner was sentenced or the State's Attorney of the county where the person seeking parole was prosecuted, the Prisoner Review Board shall notify the victim and the State's Attorney of the county where the person seeking parole was prosecuted of the death of the prisoner if the prisoner died while on parole or mandatory supervised release.

(7) When a defendant who has been committed to the Department of Corrections, the Department of Juvenile Justice, or the Department of Human Services is released or discharged and subsequently committed to the Department of Human Services as a sexually violent person and the victim had requested to be notified by the releasing authority of the defendant's discharge from State custody, the releasing authority shall provide to the Department of Human Services such information that would allow the Department of Human Services to contact the victim.

(e) The officials named in this Section may satisfy some or all of their obligations to provide notices and other information through participation in a statewide victim and witness notification system established by the Attorney General under Section 8.5 of this Act.

(f) To permit a victim of a violent crime to provide information to the Prisoner Review Board for consideration by the Board at a parole hearing of a person who committed the crime against the victim in accordance with clause (d)(4) of this Section or at a proceeding to determine the conditions of mandatory supervised release of a person sentenced to a determinate sentence or at a hearing on revocation of mandatory supervised release of a person sentenced to a determinate sentence, the Board shall establish a toll-free number that may be accessed by the victim of a violent crime to present that information to the Board.

(Source: P.A. 94-696, eff. 6-1-06; 95-317, eff. 8-21-07.)

Section 10. The Unified Code of Corrections is amended by changing Sections 3-3-2, 3-3-4, 3-3-5, and 3-5-1 as follows:

(730 ILCS 5/3-3-2) (from Ch. 38, par. 1003-3-2)

Sec. 3-3-2. Powers and Duties.

(a) The Parole and Pardon Board is abolished and the term "Parole and Pardon Board" as used in any law of Illinois, shall read "Prisoner Review Board." After the effective date of this amendatory Act of 1977, the Prisoner Review Board shall provide by rule for the orderly transition of all files, records, and documents of the Parole and Pardon Board and for such other steps as may be necessary to effect an orderly transition and shall:

(1) hear by at least one member and through a panel of at least 3 members decide, cases of prisoners who were sentenced under the law in effect prior to the effective date of this amendatory Act of 1977, and who are eligible for parole;

(2) hear by at least one member and through a panel of at least 3 members decide, the conditions of parole and the time of discharge from parole, impose sanctions for violations of parole, and revoke parole for those sentenced under the law in effect prior to this amendatory Act of 1977; provided that the decision to parole and the conditions of parole for all prisoners who were sentenced for first degree murder or who received a minimum sentence of 20 years or more under the law in effect prior to February 1, 1978 shall be determined by a majority vote of the Prisoner Review Board after the members present at the en banc have heard presentations in support of and, if the parole is opposed, in objection to the parole request;

(3) hear by at least one member and through a panel of at least 3 members decide, the conditions of mandatory supervised release and the time of discharge from mandatory supervised release, impose sanctions for violations of mandatory supervised release, and revoke mandatory supervised release for those sentenced under the law in effect after the effective date of this amendatory Act of 1977;

(3.5) hear by at least one member and through a panel of at least 3 members decide, the

conditions of mandatory supervised release and the time of discharge from mandatory supervised release, to impose sanctions for violations of mandatory supervised release and revoke mandatory supervised release for those serving extended supervised release terms pursuant to paragraph (4) of subsection (d) of Section 5-8-1;

(4) hear by at least 1 member and through a panel of at least 3 members, decide cases brought by the Department of Corrections against a prisoner in the custody of the Department for alleged violation of Department rules with respect to good conduct credits pursuant to Section 3-6-3 of this Code in which the Department seeks to revoke good conduct credits, if the amount of time at issue exceeds 30 days or when, during any 12 month period, the cumulative amount of credit revoked exceeds 30 days except where the infraction is committed or discovered within 60 days of scheduled release. In such cases, the Department of Corrections may revoke up to 30 days of good conduct credit. The Board may subsequently approve the revocation of additional good conduct credit, if the Department seeks to revoke good conduct credit in excess of thirty days. However, the Board shall not be empowered to review the Department's decision with respect to the loss of 30 days of good conduct credit for any prisoner or to increase any penalty beyond the length requested by the Department;

(5) hear by at least one member and through a panel of at least 3 members decide, the release dates for certain prisoners sentenced under the law in existence prior to the effective date of this amendatory Act of 1977, in accordance with Section 3-3-2.1 of this Code;

(6) hear by at least one member and through a panel of at least 3 members decide, all requests for pardon, reprieve or commutation, and make confidential recommendations to the Governor;

(7) comply with the requirements of the Open Parole Hearings Act;

(8) hear by at least one member and, through a panel of at least 3 members, decide cases brought by the Department of Corrections against a prisoner in the custody of the Department for court dismissal of a frivolous lawsuit pursuant to Section 3-6-3(d) of this Code in which the Department seeks to revoke up to 180 days of good conduct credit, and if the prisoner has not accumulated 180 days of good conduct credit at the time of the dismissal, then all good conduct credit accumulated by the prisoner shall be revoked; and

(9) hear by at least 3 members, and, through a panel of at least 3 members, decide whether to grant certificates of relief from disabilities or certificates of good conduct as provided in Article 5.5 of Chapter V.

(a-5) The Prisoner Review Board, with the cooperation of and in coordination with the Department of Corrections and the Department of Central Management Services, shall implement a pilot project in 3 correctional institutions providing for the conduct of hearings under paragraphs (1) and (4) of subsection (a) of this Section through interactive video conferences. The project shall be implemented within 6 months after the effective date of this amendatory Act of 1996. Within 6 months after the implementation of the pilot project, the Prisoner Review Board, with the cooperation of and in coordination with the Department of Corrections and the Department of Central Management Services, shall report to the Governor and the General Assembly regarding the use, costs, effectiveness, and future viability of interactive video conferences for Prisoner Review Board hearings.

(b) Upon recommendation of the Department the Board may restore good conduct credit previously revoked.

(c) The Board shall cooperate with the Department in promoting an effective system of parole and mandatory supervised release.

(d) The Board shall promulgate rules for the conduct of its work, and the Chairman shall file a copy of such rules and any amendments thereto with the Director and with the Secretary of State.

(e) The Board shall keep records of all of its official actions and shall make them accessible in accordance with law and the rules of the Board.

(f) The Board or one who has allegedly violated the conditions of his parole or mandatory supervised release may require by subpoena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under investigation or hearing. The Chairman of the Board may sign subpoenas which shall be served by any agent or public official authorized by the Chairman of the Board, or by any person lawfully authorized to serve a subpoena under the laws of the State of Illinois. The attendance of witnesses, and the production of documentary evidence, may be required from any place in the State to a hearing location in the State before the Chairman of the Board or his designated agent or agents or any duly constituted Committee or Subcommittee of the Board. Witnesses so summoned shall be paid the same fees and mileage that are paid witnesses in the circuit courts of the State, and witnesses whose depositions are taken and the persons taking those depositions are each entitled to the same fees as are paid for like services in actions in the circuit courts of the State. Fees and

mileage shall be vouchered for payment when the witness is discharged from further attendance.

In case of disobedience to a subpoena, the Board may petition any circuit court of the State for an order requiring the attendance and testimony of witnesses or the production of documentary evidence or both. A copy of such petition shall be served by personal service or by registered or certified mail upon the person who has failed to obey the subpoena, and such person shall be advised in writing that a hearing upon the petition will be requested in a court room to be designated in such notice before the judge hearing motions or extraordinary remedies at a specified time, on a specified date, not less than 10 nor more than 15 days after the deposit of the copy of the written notice and petition in the U.S. mails addressed to the person at his last known address or after the personal service of the copy of the notice and petition upon such person. The court upon the filing of such a petition, may order the person refusing to obey the subpoena to appear at an investigation or hearing, or to there produce documentary evidence, if so ordered, or to give evidence relative to the subject matter of that investigation or hearing. Any failure to obey such order of the circuit court may be punished by that court as a contempt of court.

Each member of the Board and any hearing officer designated by the Board shall have the power to administer oaths and to take the testimony of persons under oath.

(g) Except under subsection (a) of this Section, a majority of the members then appointed to the Prisoner Review Board shall constitute a quorum for the transaction of all business of the Board.

(h) The Prisoner Review Board shall annually transmit to the Director a detailed report of its work for the preceding calendar year. The annual report shall also be transmitted to the Governor for submission to the Legislature.

(Source: P.A. 93-207, eff. 1-1-04; 94-165, eff. 7-11-05.)

(730 ILCS 5/3-3-4) (from Ch. 38, par. 1003-3-4)

Sec. 3-3-4. Preparation for Parole Hearing.

(a) The Prisoner Review Board shall consider the parole of each eligible person committed to the Adult Division at least 30 days prior to the date he shall first become eligible for parole, and shall consider the parole of each person committed to the Department of Juvenile Justice as a delinquent at least 30 days prior to the expiration of the first year of confinement.

(b) A person eligible for parole shall, in advance of his parole hearing, prepare a parole plan in accordance with the rules of the Prisoner Review Board. The person shall be assisted in preparing his parole plan by personnel of the Department of Corrections, or the Department of Juvenile Justice in the case of a person committed to that Department, and may, for this purpose, be released on furlough under Article 11 or on authorized absence under Section 3-9-4. The appropriate Department shall also provide assistance in obtaining information and records helpful to the individual for his parole hearing.

(c) The members of the Board shall have access at all reasonable times to any committed person and to his master record file within the Department, and the Department shall furnish such reports to the Board as the Board may require concerning the conduct and character of any such person.

(d) In making its determination of parole, the Board shall consider:

(1) material transmitted to the Department of Juvenile Justice by the clerk of the committing court under Section 5-4-1 or Section 5-10 of the Juvenile Court Act or Section 5-750 of the Juvenile Court Act of 1987;

(2) the report under Section 3-8-2 or 3-10-2;

(3) a report by the Department and any report by the chief administrative officer of the institution or facility;

(4) a parole progress report;

(5) a medical and psychological report, if requested by the Board;

(6) material in writing, or on film, video tape or other electronic means in the form of a recording submitted by the person whose parole is being considered; and

(7) material in writing, or on film, video tape or other electronic means in the form of a recording or testimony submitted by the State's Attorney and the victim or a concerned citizen pursuant to the Rights of Crime Victims and Witnesses Act.

(e) The prosecuting State's Attorney's office shall receive from the Board reasonable written notice not less than 60 ~~15~~ days prior to the ~~parole~~ hearing described in paragraph (b-2) of Section 3-3-5 of this Code the names of all inmates scheduled for said hearing and may submit relevant information by oral argument or testimony of victims and concerned citizens, or both, in writing, or on film, video tape or other electronic means or in the form of a recording to the Board for its consideration. The State's Attorney may waive the written notice or request reasonable time to procure additional information.

(f) The victim of the violent crime for which the prisoner has been sentenced shall receive notice of a parole hearing as provided in paragraph (4) of subsection (d) of Section 4.5 of the Rights of Crime Victims and Witnesses Act.

(g) Any recording considered under the provisions of subsection (d)(6), (d)(7) or (e) of this Section shall be in the form designated by the Board. Such recording shall be both visual and aural. Every voice on the recording and person present shall be identified and the recording shall contain either a visual or aural statement of the person submitting such recording, the date of the recording and the name of the person whose parole eligibility is being considered. Such recordings shall be ~~, if~~ retained by the Board and shall be deemed to be submitted at any subsequent parole hearing if the victim or State's Attorney submits in writing a declaration clearly identifying such recording as representing the present position of the victim or State's Attorney regarding the issues to be considered at the parole hearing.
(Source: P.A. 94-696, eff. 6-1-06.)

(730 ILCS 5/3-3-5) (from Ch. 38, par. 1003-3-5)

Sec. 3-3-5. Hearing and Determination.

(a) The Prisoner Review Board shall meet as often as need requires to consider the cases of persons eligible for parole. Except as otherwise provided in paragraph (2) of subsection (a) of Section 3-3-2 of this Act, the Prisoner Review Board may meet and order its actions in panels of 3 or more members. The action of a majority of the panel shall be the action of the Board. In consideration of persons committed to the Department of Juvenile Justice, the panel shall have at least a majority of members experienced in juvenile matters.

(b) If the person under consideration for parole is in the custody of the Department, at least one member of the Board shall interview him, and a report of that interview shall be available for the Board's consideration. However, in the discretion of the Board, the interview need not be conducted if a psychiatric examination determines that the person could not meaningfully contribute to the Board's consideration. The Board may in its discretion parole a person who is then outside the jurisdiction on his record without an interview. The Board need not hold a hearing or interview a person who is paroled under paragraphs (d) or (e) of this Section or released on Mandatory release under Section 3-3-10.

(b-1) When an interview is conducted, the person seeking parole shall be interviewed at the penal institution where the person is confined and may receive additional testimony from the person seeking parole's attorney, family, and other persons in support of the Board granting parole. Upon the request of the State's Attorney and to the extent allowed by law, a copy of the any written submissions by the person seeking parole and copies of the reports described in paragraph (c) of Section 3-3-4 of this Act, documents in the possession of the Board reflecting the person seeking parole's current medical conditions and treatment, and the person seeking parole's mental health reports, shall be served upon the State's Attorney of the county that prosecuted the person by the Prisoner Review Board within 3 days of the Board's receipt of these documents. Upon the request of the State's Attorney, the Board shall make available for inspection and copying the file described in paragraph (c) of Section 3-3-4 of this Act.

Thereafter, the Board may upon the written request of the State's Attorney of the county where the person seeking parole was prosecuted conduct the State's Attorney's portion of the parole hearing within said county, or the judicial circuit within which the county rests. At the hearing, a State's Attorney's Office representative and all victims or concerned citizens may address the Board. These statements may be made in person, in writing, or by a recording or video recording. At least one member of the Board shall preside over this hearing.

(b-3) After the State's Attorney's portion of the parole hearing, the Board shall give all registered crime victims and the State's Attorney of the county where the person seeking parole was prosecuted 15 days notice of an en banc hearing before the Board. Such hearing may be continued by the Board only if the persons objecting to and supporting parole are given 5 days notice of any hearing continuance unless there is an emergency declared by the Chairman of the Board. One Board member shall make a comprehensive presentation of the person seeking parole's case to the Board. The person seeking parole's attorney and one representative of the person seeking parole may address the Board. A representative of the Office of the State's Attorney and the victim or one representative of the victim may address the Board and request conditions of parole should the Board vote to parole the person seeking parole. Thereafter, the Board shall deliberate and vote on granting parole.

(c) The Board shall not parole a person eligible for parole if it determines that:

(1) there is a substantial risk that he will not conform to reasonable conditions of parole; or

(2) his release at that time would deprecate the seriousness of his offense or promote disrespect for the law; or

(3) his release would have a substantially adverse effect on institutional discipline.

(d) A person committed under the Juvenile Court Act or the Juvenile Court Act of 1987 who has not been sooner released shall be paroled on or before his 20th birthday to begin serving a period of parole under Section 3-3-8.

(e) A person who has served the maximum term of imprisonment imposed at the time of sentencing less time credit for good behavior shall be released on parole to serve a period of parole under Section 5-8-1.

(f) The Board shall render its decision within a reasonable time after hearing and shall state the basis therefor both in the records of the Board and in written notice to the person on whose application it has acted. In its decision, the Board shall set the person's time for parole, or if it denies parole it shall provide for a rehearing not less frequently than once every year, except that the Board may, after denying parole, schedule a rehearing no later than 5 ~~3~~ years from the date of the parole denial, if the Board finds that it is not reasonable to expect that parole would be granted at a hearing prior to the scheduled rehearing date. If the Board shall parole a person, and, if he is not released within 90 days from the effective date of the order granting parole, the matter shall be returned to the Board for review.

(g) The Board shall maintain a registry of decisions in which parole has been granted, which shall include the name and case number of the prisoner, the highest charge for which the prisoner was sentenced, the length of sentence imposed, the date of the sentence, the date of the parole, and the basis for the decision of the Board to grant parole and the vote of the Board on any such decisions. The registry shall be made available for public inspection and copying during business hours and shall be a public record pursuant to the provisions of the Freedom of Information Act.

(h) The Board shall promulgate rules regarding the exercise of its discretion under this Section.

(Source: P.A. 94-696, eff. 6-1-06.)

(730 ILCS 5/3-5-1) (from Ch. 38, par. 1003-5-1)

Sec. 3-5-1. Master Record File.

(a) The Department of Corrections and the Department of Juvenile Justice shall maintain a master record file on each person committed to it, which shall contain the following information:

(1) all information from the committing court;

(2) reception summary;

(3) evaluation and assignment reports and recommendations;

(4) reports as to program assignment and progress;

(5) reports of disciplinary infractions and disposition;

(6) any parole plan;

(7) any parole reports;

(8) the date and circumstances of final discharge; and any other pertinent data

concerning the person's background, conduct, associations and family relationships as may be required by the respective Department. A current summary index shall be maintained on each file which shall include the person's known active and past gang affiliations and ranks.

(b) All files shall be confidential and access shall be limited to authorized personnel of the respective Department. Personnel of other correctional, welfare or law enforcement agencies may have access to files under rules and regulations of the respective Department. The prosecuting State's Attorney's Office shall have access to the committed person's master record file whenever the Prisoner Review Board has scheduled a parole hearing for the committed person under Section 3-3-5 of this Code. The respective Department shall keep a record of all outside personnel who have access to files, the files reviewed, any file material copied, and the purpose of access. If the respective Department or the Prisoner Review Board makes a determination under this Code which affects the length of the period of confinement or commitment, the committed person and his counsel shall be advised of factual information relied upon by the respective Department or Board to make the determination, provided that the Department or Board shall not be required to advise a person committed to the Department of Juvenile Justice any such information which in the opinion of the Department of Juvenile Justice or Board would be detrimental to his treatment or rehabilitation.

(c) The master file shall be maintained at a place convenient to its use by personnel of the respective Department in charge of the person. When custody of a person is transferred from the Department to another department or agency, a summary of the file shall be forwarded to the receiving agency with such other information required by law or requested by the agency under rules and regulations of the respective Department.

(d) The master file of a person no longer in the custody of the respective Department shall be placed on inactive status and its use shall be restricted subject to rules and regulations of the Department.

(e) All public agencies may make available to the respective Department on request any factual data not otherwise privileged as a matter of law in their possession in respect to individuals committed to the respective Department.

(Source: P.A. 94-696, eff. 6-1-06.)

Section 95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Haine, **Senate Bill No. 2254**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Risinger
Bivins	Forby	Link	Rutherford
Bomke	Frerichs	Luechtefeld	Sandoval
Bond	Garrett	Maloney	Schoenberg
Brady	Haine	Martinez	Silverstein
Burzynski	Halvorson	Meeks	Steans
Clayborne	Harmon	Millner	Sullivan
Collins	Hendon	Munoz	Syverson
Cronin	Holmes	Murphy	Trotter
Crotty	Hultgren	Noland	Viverito
Cullerton	Hunter	Pankau	Watson
Dahl	Jacobs	Peterson	Wilhelmi
DeLeo	Jones, J.	Radogno	Mr. President
Delgado	Koehler	Raoul	
Demuzio	Kotowski	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Cullerton, **Senate Bill No. 2256** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2256

AMENDMENT NO. 1. Amend Senate Bill 2256 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Human Rights Act is amended by changing Section 5-101 and by adding Section 5-102.2 as follows:

(775 ILCS 5/5-101) (from Ch. 68, par. 5-101)

Sec. 5-101. Definitions) The following definitions are applicable strictly in the context of this Article:

(A) Place of Public Accommodation. "Place of public accommodation" includes, but is not limited to:

(1) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than 5 units for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;

(2) a restaurant, bar, or other establishment serving food or drink;

(3) a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

(4) an auditorium, convention center, lecture hall, or other place of public gathering;

(5) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(6) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(7) public conveyances on air, water, or land;

(8) a terminal, depot, or other station used for specified public transportation;

(9) a museum, library, gallery, or other place of public display or collection;

(10) a park, zoo, amusement park, or other place of recreation;

(11) a non-sectarian nursery, day care center, elementary, secondary, undergraduate, or postgraduate school, or other place of education ~~in regard to the failure to enroll an individual or the denial of access to its facilities, goods, or services, except that the Department shall not have jurisdiction over charges involving curriculum content, course content, or course offerings, conduct of the class by the teacher or instructor, or any activity within the classroom or connected with a class activity such as physical education~~;

(12) a senior citizen center, homeless shelter, food bank, non-sectarian adoption agency, or other social service center establishment; and

(13) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

(B) Operator. "Operator" means any owner, lessee, proprietor, manager, superintendent, agent, or occupant of a place of public accommodation or an employee of any such person or persons.

(C) Public Official. "Public official" means any officer or employee of the state or any agency thereof, including state political subdivisions, municipal corporations, park districts, forest preserve districts, educational institutions and schools.

(Source: P.A. 95-668, eff. 10-10-07.)

(775 ILCS 5/5-102.2 new)

Sec. 5-102.2. Jurisdiction limited. In regard to places of public accommodation defined in paragraph (11) of Section 5-101, the jurisdiction of the Department is limited to: (1) the failure to enroll an individual; (2) the denial of access to facilities, goods, or services; (3) harassment, bullying, or similar acts against an individual; or (4) the failure of a covered entity to take corrective action to stop harassment, bullying, or similar acts against an individual.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Cullerton, **Senate Bill No. 2256**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Viverito
Dahl	Jacobs	Pankau	Watson
DeLeo	Jones, J.	Peterson	Wilhelmi
Delgado	Koehler	Radogno	Mr. President
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Cullerton, **Senate Bill No. 2275** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 4 TO SENATE BILL 2275

AMENDMENT NO. 4. Amend Senate Bill 2275, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 8, line 25, by deleting "and"; and

on page 9, by replacing line 1 with the following:

"Illinois Partnership;

(14) one member appointed by the Governor who is a chairman of a county board; and

(15) one member appointed by the President of the Illinois Probation and Court Services Association.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 4 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Cullerton, **Senate Bill No. 2275**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 42; Nays 15.

The following voted in the affirmative:

Althoff	Demuzio	Koehler	Sandoval
Bomke	Dillard	Lightford	Schoenberg
Bond	Frerichs	Link	Silverstein

Brady	Garrett	Luechtefeld	Steans
Clayborne	Haine	Maloney	Sullivan
Collins	Halvorson	Martinez	Trotter
Crotty	Harmon	Meeks	Viverito
Cullerton	Hendon	Munoz	Wilhelmi
Dahl	Hunter	Murphy	Mr. President
DeLeo	Jacobs	Noland	
Delgado	Jones, J.	Raoul	

The following voted in the negative:

Bivins	Holmes	Millner	Risinger
Burzynski	Hultgren	Pankau	Rutherford
Cronin	Kotowski	Radogno	Watson
Forby	Lauzen	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Cullerton, **Senate Bill No. 2285** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2285

AMENDMENT NO. 2. Amend Senate Bill 2285 as follows:

on page 1, by replacing lines 18 through 22 with the following:

"(2) "Emergency" means an event or condition that is a disaster as defined in the Illinois Emergency Management Agency Act."; and

on page 2, line 1, after "emergency", by inserting "or disaster"; and

on page 5, line 9, by replacing "Illinois Emergency Management Agency" with "Department of Public Health"; and

on page 6, line 3, by replacing "Illinois Emergency Management Agency" with "Department of Public Health"; and

on page 7, lines 22 and 23, by replacing "Illinois Emergency Management Agency" with "the Department of Public Health"; and

on page 7, line 26, by replacing "Illinois Emergency Management Agency" with "Department of Public Health"; and

on page 8, line 1, by replacing "Illinois Emergency Management Agency" with "Department of Public Health"; and

on page 12, lines 23 and 24, by replacing "Illinois Emergency Management Agency" with "Department of Public Health"; and

on page 13, line 1, by replacing "Illinois Emergency Management Agency" with "Department of Public Health"; and

on page 14, lines 6 and 15, by replacing "Department of Labor" with "Illinois Workers' Compensation

Commission" each time it appears; and

by deleting line 18 on page 16 through line 1 on page 18.

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Cullerton, **Senate Bill No. 2285**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Risinger
Bivins	Forby	Lightford	Rutherford
Bomke	Frerichs	Link	Sandoval
Bond	Garrett	Luechtefeld	Schoenberg
Brady	Haine	Maloney	Silverstein
Burzynski	Halvorson	Martinez	Steans
Clayborne	Harmon	Meeks	Sullivan
Collins	Hendon	Millner	Syverson
Cronin	Holmes	Munoz	Trotter
Crotty	Hultgren	Murphy	Viverito
Cullerton	Hunter	Noland	Watson
Dahl	Jacobs	Pankau	Wilhelmi
DeLeo	Jones, J.	Peterson	Mr. President
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Maloney, **Senate Bill No. 2293**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 57; Nays None; Present 1.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Rutherford
Bivins	Forby	Lightford	Sandoval
Bomke	Frerichs	Link	Schoenberg
Bond	Garrett	Luechtefeld	Silverstein
Brady	Haine	Maloney	Steans
Burzynski	Halvorson	Martinez	Sullivan
Clayborne	Harmon	Millner	Syverson

Collins	Hendon	Munoz	Trotter
Cronin	Holmes	Murphy	Viverito
Crotty	Hultgren	Noland	Watson
Cullerton	Hunter	Pankau	Wilhelmi
Dahl	Jacobs	Peterson	Mr. President
DeLeo	Jones, J.	Radogno	
Delgado	Koehler	Righter	
Demuzio	Kotowski	Risinger	

The following voted present:

Raoul

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Brady, **Senate Bill No. 2329**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Syverson
Cronin	Holmes	Munoz	Trotter
Crotty	Hultgren	Murphy	Viverito
Cullerton	Hunter	Noland	Watson
Dahl	Jacobs	Pankau	Wilhelmi
DeLeo	Jones, J.	Peterson	Mr. President
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Schoenberg, **Senate Bill No. 2332**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Viverito
Dahl	Jacobs	Pankau	Watson
DeLeo	Jones, J.	Peterson	Wilhelmi
Delgado	Koehler	Radogno	Mr. President
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Wilhelmi, **Senate Bill No. 2344**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Viverito
Dahl	Jacobs	Pankau	Watson
DeLeo	Jones, J.	Peterson	Wilhelmi
Delgado	Koehler	Radogno	Mr. President
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Wilhelmi, **Senate Bill No. 2349** was recalled from the order of third reading to the order of second reading.

Senator Wilhelmi offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2349

AMENDMENT NO. 2. Amend Senate Bill 2349, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 1, line 7, by inserting ", except for willful and wanton misconduct," after "Section"; and

on page 2, line 1, by inserting ", except for willful and wanton misconduct," after "Section".

The motion prevailed.

And the amendment was adopted and ordered printed.

Senate Floor Amendment No. 3 was held in the Committee on Rules.

Senator Wilhelmi offered the following amendment and moved its adoption:

AMENDMENT NO. 4 TO SENATE BILL 2349

AMENDMENT NO. 4. Amend Senate Bill 2349 on page 1, line 1, by inserting after "law" the following:
", which may be referred to as the Child Protection Act of 2008"; and

on page 1, by replacing lines 5 and 6 with the following:
"Sections 11-9.4, 11-21, 11-23, and 11-24 and by adding Sections 10-8.1 and 11-6.6 as follows:"; and

on page 1, line 19, by inserting after "age" the following:
", other than for a lawful purpose under Illinois law"; and

on page 1, line 23, by inserting after "age" the following:
", other than for a lawful purpose under Illinois law"; and

on page 2, line 14, by inserting after "guardian" the following:
"and the meeting with the child is arranged for a purpose other than a lawful purpose under Illinois law"; and

on page 4, line 18, by inserting after "communicate" the following:
", other than for a lawful purpose under Illinois law"; and

by deleting lines 18 through 25 on page 12 and lines 1 through 12 on page 13; and

on page 18, by inserting immediately below line 17 the following:

"(720 ILCS 5/11-23)

Sec. 11-23. Posting of identifying or graphic information on a pornographic Internet site or possessing graphic information with pornographic material.

(a) A person at least 17 years of age who discloses on an adult obscenity or child pornography Internet site the name, address, telephone number, or e-mail address of a person under 17 years of age at the time of the commission of the offense or of a person at least 17 years of age without the consent of the person at least 17 years of age is guilty of the offense of posting of identifying information on a pornographic Internet site.

(a-5) Any person who places, posts, reproduces, or maintains on an adult obscenity or child pornography Internet site a photograph, video, or digital image of a person under 18 years of age that is not child pornography under Section 11-20.1, without the knowledge and consent of the person under 18 years of age, is guilty of the offense of posting of graphic information on a pornographic Internet site. This provision applies even if the person under 18 years of age is fully or properly clothed in the photograph, video, or digital image.

(a-10) Any person who places, posts, reproduces, or maintains on an adult obscenity or child pornography Internet site, or possesses with obscene or child pornographic material a photograph, video, or digital image of a person under 18 year of age in which the child is posed in a suggestive manner with the focus or concentration of the image on the child's clothed genitals, clothed pubic area, clothed buttocks area, or if the child is female, the breast exposed through transparent clothing, and the photograph, video, or digital image is not child pornography under Section 11-20.1, is guilty of posting of graphic information on a pornographic Internet site or possessing graphic information with pornographic material.

(b) Sentence. A person who violates subsection (a) of this Section is guilty of a Class 4 felony if the

victim is at least 17 years of age at the time of the offense and a Class 3 felony if the victim is under 17 years of age at the time of the offense. A person who violates subsection (a-5) of this Section is guilty of a Class 4 felony. A person who violates subsection (a-10) of this Section is guilty of a Class 3 felony.

(c) Definitions. For purposes of this Section:

(1) "Adult obscenity or child pornography Internet site" means a site on the Internet that contains material that is obscene as defined in Section 11-20 of this Code or that is child pornography as defined in Section 11-20.1 of this Code.

(2) "Internet" includes the World Wide Web, electronic mail, a news group posting, or Internet file transfer.

(Source: P.A. 91-222, eff. 7-22-99.)"; and

by replacing line 25 on page 18 and lines 1 through 4 on page 19 with the following:

"(1) conduct or operate any type of business in which he or she photographs, videotapes, or takes a digital image of a child; or

(2) conduct or operate any type of business in which he or she instructs or directs another"; and

on page 19, by replacing line 6 with the following:

"a child; or -

(3) photograph, videotape, or take a digital image of a child, or instruct or direct another person to photograph, videotape, or take a digital image of a child without the consent of the parent or guardian."; and

by deleting all of page 20.

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments numbered 2 and 4 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Wilhelmi, **Senate Bill No. 2349**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Risinger
Bivins	Forby	Lightford	Rutherford
Bomke	Frerichs	Link	Sandoval
Bond	Garrett	Maloney	Schoenberg
Brady	Haine	Martinez	Silverstein
Burzynski	Halvorson	Meeks	Steans
Clayborne	Harmon	Millner	Sullivan
Collins	Hendon	Munoz	Syverson
Cronin	Holmes	Murphy	Trotter
Crotty	Hultgren	Noland	Watson
Cullerton	Hunter	Pankau	Wilhelmi
Dahl	Jacobs	Peterson	Mr. President
DeLeo	Jones, J.	Radogno	
Delgado	Koehler	Raoul	
Demuzio	Kotowski	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator Luechtefeld asked and obtained unanimous consent for the Journal to reflect his affirmative vote on **Senate Bill No. 2349.**

SENATE BILL RECALLED

On motion of Senator Raoul, **Senate Bill No. 2354** was recalled from the order of third reading to the order of second reading.

Senator Raoul offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2354

AMENDMENT NO. 3. Amend Senate Bill 2354 on page 3, by inserting immediately below line 18 the following:

"(a-15) If the court finds it is a matter of immediate and urgent necessity for the protection of the minor that the minor be placed in a shelter care facility, detention center, or foster care, there shall be a rebuttable presumption that such findings comply with the factors outlined in subsections (a-5) and (a-10).".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Raoul, **Senate Bill No. 2354**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 51; Nays 5.

The following voted in the affirmative:

Bivins	Forby	Lightford	Righter
Bomke	Frerichs	Link	Risinger
Bond	Garrett	Luechtefeld	Rutherford
Clayborne	Haine	Maloney	Sandoval
Collins	Halvorson	Martinez	Schoenberg
Cronin	Harmon	Meeks	Silverstein
Crotty	Hendon	Munoz	Steans
Cullerton	Holmes	Murphy	Sullivan
Dahl	Hunter	Noland	Trotter
DeLeo	Jacobs	Pankau	Watson
Delgado	Jones, J.	Peterson	Wilhelmi
Demuzio	Koehler	Radogno	Mr. President
Dillard	Kotowski	Raoul	

The following voted in the negative:

Brady	Hultgren	Millner
Burzynski	Lauzen	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Cronin, **Senate Bill No. 2362**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Watson
Dahl	Jacobs	Pankau	Wilhelmi
DeLeo	Jones, J.	Peterson	Mr. President
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Cullerton, **Senate Bill No. 2396** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2396

AMENDMENT NO. 1. Amend Senate Bill 2396 on page 25, in line 24, by changing "$20" to "$30 ~~$20~~".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Cullerton, **Senate Bill No. 2396**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Watson
Dahl	Jacobs	Pankau	Wilhelmi
DeLeo	Jones, J.	Peterson	Mr. President
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Link, **Senate Bill No. 2399** was recalled from the order of third reading to the order of second reading.

Senator Link offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2399

AMENDMENT NO. 1. Amend Senate Bill 2399 on page 2, line 8, by replacing "occurrence" with "occurrence or possible occurrence"; and

on page 10, by deleting lines 5 through 13; and

on page 10, line 14, by replacing "(d)" with "(c)".

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Link offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2399

AMENDMENT NO. 2. Amend Senate Bill 2399 as follows:

on page 10, lines 23 and 24, by replacing "The corporate authorities of a municipality or other unit of local government" with "Any home rule unit of local government, any non-home rule municipality, or any non-home rule county within the unincorporated territory of the county".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Link, **Senate Bill No. 2399**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Watson
Dahl	Jacobs	Pankau	Wilhelmi
DeLeo	Jones, J.	Peterson	Mr. President
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Link, **Senate Bill No. 2400** was recalled from the order of third reading to the order of second reading.

Senator Link offered the following amendment and moved its adoption:

AMENDMENT NO. 4 TO SENATE BILL 2400

AMENDMENT NO. 4. Amend Senate Bill 2400, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Biometric Information Privacy Act.

Section 5. Legislative findings; intent. The General Assembly finds all of the following:

(a) The use of biometrics is growing in the business and security screening sectors and appears to promise streamlined financial transactions and security screenings.

(b) Major national corporations have selected the City of Chicago and other locations in this State as pilot testing sites for new applications of biometric-facilitated financial transactions, including "Pay By Touch" at banks, grocery stores, gas stations, and school cafeterias.

(c) Biometrics are unlike other unique identifiers that are used to access finances or other sensitive information. For example, social security numbers, when compromised, can be changed. Biometrics, however, are biologically unique to the individual; therefore, once compromised, the individual has no recourse, is at heightened risk for identity theft, and is likely to withdraw from biometric-facilitated transactions.

(d) An overwhelming majority of members of the public are opposed to the use of biometrics when such information is tied to personal finances and other personal information.

(e) Despite limited State law regulating the collection, use, safeguarding, and storage of biometric information, many members of the public are deterred from partaking in biometric identifier-facilitated

facility transactions.

(f) The public welfare, security, and safety will be served by regulating the collection, use, safeguarding, handling, storage, retention, and destruction of biometric identifiers and information.

Section 10. Definitions. In this Act:

"Biometric identifier" means any indelible personal physical characteristic which can be used to uniquely identify an individual or pinpoint an individual at a particular place at a particular time. Examples of biometric identifiers include, but are not limited to iris or retinal scans, fingerprints, voiceprints, and records or scans of hand geometry, facial geometry, or facial recognition. Biometric identifiers do not include writing samples, written signatures, photographs, tattoo descriptions, physical descriptions, or human biological samples used for valid scientific testing or screening. Biometric identifiers do not include donated organs, tissues, or parts as defined in the Illinois Anatomical Gift Act or blood or serum stored on behalf of recipients or potential recipients of living or cadaveric transplants and obtained or stored by a federally-designated organ procurement agency. Biometric identifiers do not include biological materials regulated under the Genetic Information Privacy Act. Biometric identifiers do not include information captured from a patient in a health care setting or information collected, used, or stored for health care treatment, payment, or operations under the federal Health Insurance Portability and Accountability Act of 1996. Biometric identifiers do not include an X-ray, roentgen process, computed tomography, MRI, PET scan, mammography, or other image or film of the human anatomy used to diagnose, prognose, or treat an illness or other medical condition or to further valid scientific testing or screening.

"Biometric information" means any information, regardless of how it is captured, converted, stored, or shared, based on an individual's biometric identifier used to identify an individual. Biometric information does not include information derived from items or procedures excluded under the definition of biometric identifiers. Biometric information does not include information captured from a patient in a health care setting or information collected, used, or stored for health care treatment, payment, or operations under the federal Health Insurance Portability and Accountability Act of 1996.

"Confidential and sensitive information" means personal information that can be used to uniquely identify an individual or an individual's account or property. Examples of confidential and sensitive information include, but are not limited to, a genetic marker, genetic testing information, a unique identifier number to locate an account or property, an account number, a PIN number, a pass code, a driver's license number, or a social security number.

"Legally effective written release" means informed written consent or a release executed by an employee as a condition of employment.

"Private entity" means any individual, partnership, corporation, limited liability company, association, or other group, however organized. A private entity does not include a public agency. A private entity does not include any court of Illinois, a clerk of the court, or a judge or justice thereof.

"Public agency" means the State of Illinois and its various subdivisions and agencies, and all units of local government, school districts, and other governmental entities. A public agency does not include any court of Illinois, a clerk of the court, or a judge or justice thereof.

Section 15. Retention; collection; disclosure; destruction.

(a) A public agency or private entity in possession of biometric identifiers or biometric information must develop a written policy, made available to the public, establishing a retention schedule and guidelines for permanently destroying biometric identifiers and biometric information when the initial purpose for collecting or obtaining such identifiers or information has been satisfied or within 3 years of the individual's last interaction with the public agency or private entity, whichever occurs first. Absent a valid warrant or subpoena issued by a court of competent jurisdiction, a public agency or private entity in possession of biometric identifiers or biometric information must comply with its established retention schedule and destruction guidelines.

(b) No public agency or private entity may collect, capture, purchase, receive through trade, or otherwise obtain a person's or a customer's biometric identifier or biometric information, unless it first:

(1) informs the subject in writing that a biometric identifier or biometric information is being collected or stored;

(2) informs the subject in writing of the specific purpose and length of term for which a biometric identifier or biometric information is being collected, stored, and used; and

(3) receives a legally effective written release executed by the subject of the biometric identifier or biometric information or the subject's legally authorized representative.

(c) Subsections (a) and (b) of this Section do not apply to a public agency:

(1) engaged in criminal investigations, arrests, prosecutions, or law enforcement;

(2) overseeing pretrial detention, post-trial commitment, corrections or incarceration, civil commitment, probation services, or parole services;

(3) serving as the State central repository of biometrics for criminal identification and investigation purposes;

(4) furnishing biometric identifiers or biometric information to a State or federal repository of biometrics pursuant to State or federal law or municipal ordinance;

(5) receiving biometric identifiers or biometric information pursuant to State or federal law or municipal ordinance;

(6) acting pursuant to a valid warrant or subpoena issued by a court of competent jurisdiction;

(7) issuing driver's licenses, driver's permits, identification cards issued pursuant to the Illinois Identification Card Act, or occupational licenses; or

(8) performing employee background checks in accordance with the public agency's hiring policies or statutory obligations.

Nothing in subsections (a) and (b) of this Section shall be construed to conflict with the retention and collection practices for fingerprints, other biometric identifiers, or biometric information under the Criminal Identification Act, the Illinois Uniform Conviction Information Act, or the federal National Crime Prevention and Privacy Compact. Subsection (a) of this Section does not apply to school districts; however, a school district that collects biometric identifiers or biometric information must adopt retention schedules and destruction policies in accordance with the School Code. Subsection (a) of this Section does not apply to a fingerprint vendor or fingerprint vendor agency; however, a fingerprint vendor or fingerprint vendor agency must adopt retention schedules and destruction polices in accordance with the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004.

(d) No public agency or private entity in possession of a biometric identifier or biometric information may sell, lease, trade, or otherwise profit from a person's or a customer's biometric identifier or biometric information.

(e) No public agency or private entity in possession of a biometric identifier or biometric information may disclose, redisclose, or otherwise disseminate a person's or a customer's biometric identifier or biometric information unless:

(1) the subject of the biometric identifier or biometric information or the subject's legally-authorized representative consents to the disclosure or redisclosure;

(2) the disclosure or redisclosure completes a financial transaction requested or authorized by the subject of the biometric identifier or the biometric information;

(3) the disclosure or redisclosure is required by State or federal law or municipal ordinance; or

(4) the disclosure is required pursuant to a valid warrant or subpoena issued by a court of competent jurisdiction.

(f) Nothing in subsections (d) or (e) of this Section shall be construed to prohibit or inhibit a public agency (i) engaged in criminal investigations, arrests, prosecutions, or law enforcement, (ii) overseeing pretrial detention, post-trial commitment, corrections or incarceration, civil commitment, probation services, or parole services, (iii) serving as the State central repository of biometrics for criminal identification and investigation purposes, (iv) furnishing biometric identifiers or biometric information to a State or federal repository of biometrics pursuant to State or federal law, or (v) issuing driver's licenses, driver's permits, or identification cards pursuant to the Illinois Identification Card Act from:

(1) sharing biometric identifiers or biometric information with another public agency engaged in criminal investigations, arrests, prosecutions, or law enforcement to further such criminal investigations, arrests, prosecutions, or law enforcement;

(2) sharing biometric identifiers or biometric or biometric information with another public agency overseeing pretrial detention, post-trial commitment, corrections or incarceration, civil commitment, probation services, or parole services;

(3) sharing biometric identifiers or biometric information pursuant to, or required by, State or federal law; or

(4) sharing biometric identifiers or biometric information pursuant to a valid warrant or subpoena issued by a court of competent jurisdiction.

(g) Nothing in subsections (d) or (e) of this Section shall be construed to conflict with the reporting and sharing practices for fingerprints, other biometric identifiers, or biometric information under the

Criminal Identification Act, the Illinois Uniform Conviction Information Act, and the federal National Crime Prevention and Privacy Compact. Nothing in subsection (d) of this Section shall be construed to conflict with the reporting and sharing practices of a fingerprint vendor or fingerprint vendor agency under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004.

(h) Nothing in subsections (d) or (e) of this Section shall be construed to prohibit or inhibit a public agency that issues occupational licenses from:

(1) sharing biometric identifiers or biometric information pursuant to or when required by State or federal law; or

(2) sharing biometric identifiers or biometric information pursuant to a valid warrant or subpoena issued by a court of competent jurisdiction.

(i) Nothing in subsections (d) or (e) of this Section shall be construed to prohibit a public agency from performing employee background checks in accordance with the public agency's hiring policies or statutory obligations.

(j) A public agency in possession of biometric identifiers or biometric information shall store, transmit, and protect from disclosure all biometric identifiers and biometric information in a reasonable manner that is the same as or more protective than the manner in which the public agency stores, transmits, and protects other similar confidential and sensitive information specific to that public agency. The storage, transmittal, and protection from disclosure standards under this subsection (j) are solely the choice of the public agency to adopt in accordance with this Act, other applicable State or federal law, evolving advances in technology, budget constraints, and comparable practices specific to that public agency.

(k) A private entity in possession of a biometric identifier or biometric information shall:

(1) store, transmit, and protect from disclosure all biometric identifiers and biometric information using the reasonable standard of care within the private entity's industry; and

(2) store, transmit, and protect from disclosure all biometric identifiers and biometric information in a manner that is the same as or more protective than the manner in which the private entity stores, transmits, and protects other confidential and sensitive information.

(l) All information and records held by a public agency pertaining to biometric identifiers and biometric information shall be confidential and exempt from copying and inspection under the Freedom of Information Act to all except to the subject of the biometric identifier or biometric information. The subject of the biometric identifier or biometric information held by a public agency shall be permitted to copy and inspect only their own biometric identifiers and biometric information.

Section 20. Right of action. Any person aggrieved by a violation of this Act shall have a right of action in a State circuit court or as a supplemental claim in federal district court against an offending party. A prevailing party may recover for each violation:

(1) against any public agency or private entity that negligently violates a provision of this Act, liquidated damages of $1,000 or actual damages, whichever is greater;

(2) against any public agency or private entity that intentionally or recklessly violates a provision of this Act, liquidated damages of $5,000 or actual damages, whichever is greater;

(3) reasonable attorneys' fees and costs, including expert witness fees and other litigation expenses; and

(4) other relief, including an injunction, as the State or federal court may deem appropriate.

Section 25. Construction. Nothing in this Act shall be construed to impact the admission or discovery of biometric identifiers and biometric information in any action of any kind in any court, or before any tribunal, board, agency, or person. Nothing in this Act shall be construed to conflict with the X-Ray Retention Act or the federal Health Insurance Portability and Accountability Act of 1996. Subcontractors or agents of a public agency must comply with this Act to the extent and manner this Act applies to that public agency.

Section 30. Home rule. Any home rule unit of local government, any non home rule municipality, or any non home rule county within the unincorporated territory of the county may enact ordinances, standards, rules, or regulations that protect biometric identifiers and biometric information in a manner or to an extent equal to or greater than the protection provided in this Act. This Section is a limitation on

the concurrent exercise of home rule power under subsection (i) of Section 6 of Article VII of the Illinois Constitution.

Section 95. Applicability. This Act applies to private entities beginning on the effective date of this Act. This Act applies to public agencies beginning on January 1, 2011.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 4 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Link, **Senate Bill No. 2400**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Watson
Dahl	Jacobs	Pankau	Wilhelmi
DeLeo	Jones, J.	Peterson	Mr. President
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Demuzio, **Senate Bill No. 2407**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford

Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Watson
Dahl	Jacobs	Pankau	Wilhelmi
DeLeo	Jones, J.	Peterson	Mr. President
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Demuzio, **Senate Bill No. 2413**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Watson
Dahl	Jacobs	Pankau	Wilhelmi
DeLeo	Jones, J.	Peterson	Mr. President
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Cullerton, **Senate Bill No. 2452**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Watson
Dahl	Jacobs	Pankau	Wilhelmi
DeLeo	Jones, J.	Peterson	Mr. President
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Lightford, **Senate Bill No. 2482**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 55; Nays None; Present 1.

The following voted in the affirmative:

Althoff	Demuzio	Lightford	Righter
Bivins	Dillard	Link	Risinger
Bomke	Frerichs	Luechtefeld	Rutherford
Bond	Garrett	Maloney	Sandoval
Brady	Haine	Martinez	Schoenberg
Burzynski	Halvorson	Meeks	Silverstein
Clayborne	Harmon	Millner	Steans
Collins	Hendon	Munoz	Sullivan
Cronin	Hultgren	Murphy	Syverson
Crotty	Hunter	Noland	Trotter
Cullerton	Jacobs	Pankau	Watson
Dahl	Jones, J.	Peterson	Wilhelmi
DeLeo	Koehler	Radogno	Mr. President
Delgado	Lauzen	Raoul	

The following voted present:

Forby

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Link, **Senate Bill No. 2513** was recalled from the order of third reading to the order of second reading.

Senator Link offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2513

AMENDMENT NO. _2__. Amend Senate Bill 2513, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Banking Act is amended by changing Sections 2 and 48 as follows:

(205 ILCS 5/2) (from Ch. 17, par. 302)

Sec. 2. General definitions. In this Act, unless the context otherwise requires, the following words and phrases shall have the following meanings:

"Accommodation party" shall have the meaning ascribed to that term in Section 3-419 of the Uniform Commercial Code.

"Action" in the sense of a judicial proceeding includes recoupments, counterclaims, set-off, and any other proceeding in which rights are determined.

"Affiliate facility" of a bank means a main banking premises or branch of another commonly owned bank. The main banking premises or any branch of a bank may be an "affiliate facility" with respect to one or more other commonly owned banks.

"Appropriate federal banking agency" means the Federal Deposit Insurance Corporation, the Federal Reserve Bank of Chicago, or the Federal Reserve Bank of St. Louis, as determined by federal law.

"Bank" means any person doing a banking business whether subject to the laws of this or any other jurisdiction.

A "banking house", "branch", "branch bank" or "branch office" shall mean any place of business of a bank at which deposits are received, checks paid, or loans made, but shall not include any place at which only records thereof are made, posted, or kept. A place of business at which deposits are received, checks paid, or loans made shall not be deemed to be a branch, branch bank, or branch office if the place of business is adjacent to and connected with the main banking premises, or if it is separated from the main banking premises by not more than an alley; provided always that (i) if the place of business is separated by an alley from the main banking premises there is a connection between the two by public or private way or by subterranean or overhead passage, and (ii) if the place of business is in a building not wholly occupied by the bank, the place of business shall not be within any office or room in which any other business or service of any kind or nature other than the business of the bank is conducted or carried on. A place of business at which deposits are received, checks paid, or loans made shall not be deemed to be a branch, branch bank, or branch office (i) of any bank if the place is a terminal established and maintained in accordance with paragraph (17) of Section 5 of this Act, or (ii) of a commonly owned bank by virtue of transactions conducted at that place on behalf of the other commonly owned bank under paragraph (23) of Section 5 of this Act if the place is an affiliate facility with respect to the other bank.

"Branch of an out-of-state bank" means a branch established or maintained in Illinois by an out-of-state bank as a result of a merger between an Illinois bank and the out-of-state bank that occurs on or after May 31, 1997, or any branch established by the out-of-state bank following the merger.

"Bylaws" means the bylaws of a bank that are adopted by the bank's board of directors or shareholders for the regulation and management of the bank's affairs. If the bank operates as a limited liability company, however, "bylaws" means the operating agreement of the bank.

"Call report fee" means the fee to be paid to the Commissioner by each State bank pursuant to paragraph (a) of subsection (3) of Section 48 of this Act.

"Capital" includes the aggregate of outstanding capital stock and preferred stock.

"Cash flow reserve account" means the account within the books and records of the Commissioner of Banks and Real Estate used to record funds designated to maintain a reasonable Bank and Trust Company Fund operating balance to meet agency obligations on a timely basis.

"Charter" includes the original charter and all amendments thereto and articles of merger or consolidation.

"Commissioner" means the Commissioner of Banks and Real Estate, except that beginning on the effective date of this amendatory Act of the 95th General Assembly, all references in this Act to the Commissioner of Banks of and Real Estate are deemed, in appropriate contexts, to be references to the Secretary of Financial and Professional Regulation ~~or a person authorized by the Commissioner, the Office of Banks and Real Estate Act, or this Act to act in the Commissioner's stead~~.

"Commonly owned banks" means 2 or more banks that each qualify as a bank subsidiary of the same

bank holding company pursuant to Section 18 of the Federal Deposit Insurance Act; "commonly owned bank" refers to one of a group of commonly owned banks but only with respect to one or more of the other banks in the same group.

"Community" means a city, village, or incorporated town and also includes the area served by the banking offices of a bank, but need not be limited or expanded to conform to the geographic boundaries of units of local government.

"Company" means a corporation, limited liability company, partnership, business trust, association, or similar organization and, unless specifically excluded, includes a "State bank" and a "bank".

"Consolidating bank" means a party to a consolidation.

"Consolidation" takes place when 2 or more banks, or a trust company and a bank, are extinguished and by the same process a new bank is created, taking over the assets and assuming the liabilities of the banks or trust company passing out of existence.

"Continuing bank" means a merging bank, the charter of which becomes the charter of the resulting bank.

"Converting bank" means a State bank converting to become a national bank, or a national bank converting to become a State bank.

"Converting trust company" means a trust company converting to become a State bank.

"Court" means a court of competent jurisdiction.

"Director" means a member of the board of directors of a bank. In the case of a manager-managed limited liability company, however, "director" means a manager of the bank and, in the case of a member-managed limited liability company, "director" means a member of the bank. The term "director" does not include an advisory director, honorary director, director emeritus, or similar person, unless the person is otherwise performing functions similar to those of a member of the board of directors.

"Eligible depository institution" means an insured savings association that is in default, an insured savings association that is in danger of default, a State or national bank that is in default or a State or national bank that is in danger of default, as those terms are defined in this Section, or a new bank as that term defined in Section 11(m) of the Federal Deposit Insurance Act or a bridge bank as that term is defined in Section 11(n) of the Federal Deposit Insurance Act or a new federal savings association authorized under Section 11(d)(2)(f) of the Federal Deposit Insurance Act.

"Fiduciary" means trustee, agent, executor, administrator, committee, guardian for a minor or for a person under legal disability, receiver, trustee in bankruptcy, assignee for creditors, or any holder of similar position of trust.

"Financial institution" means a bank, savings and loan association, credit union, or any licensee under the Consumer Installment Loan Act or the Sales Finance Agency Act and, for purposes of Section 48.3, any proprietary network, funds transfer corporation, or other entity providing electronic funds transfer services, or any corporate fiduciary, its subsidiaries, affiliates, parent company, or contractual service provider that is examined by the Commissioner.

"Foundation" means the Illinois Bank Examiners' Education Foundation.

"General obligation" means a bond, note, debenture, security, or other instrument evidencing an obligation of the government entity that is the issuer that is supported by the full available resources of the issuer, the principal and interest of which is payable in whole or in part by taxation.

"Guarantee" means an undertaking or promise to answer for payment of another's debt or performance of another's duty, liability, or obligation whether "payment guaranteed" or "collection guaranteed".

"In danger of default" means a State or national bank, a federally chartered insured savings association or an Illinois state chartered insured savings association with respect to which the Commissioner or the appropriate federal banking agency has advised the Federal Deposit Insurance Corporation that:

(1) in the opinion of the Commissioner or the appropriate federal banking agency,

(A) the State or national bank or insured savings association is not likely to be able to meet the demands of the State or national bank's or savings association's obligations in the normal course of business; and

(B) there is no reasonable prospect that the State or national bank or insured savings association will be able to meet those demands or pay those obligations without federal assistance; or

(2) in the opinion of the Commissioner or the appropriate federal banking agency,

(A) the State or national bank or insured savings association has incurred or is likely to incur losses that will deplete all or substantially all of its capital; and

(B) there is no reasonable prospect that the capital of the State or national bank or insured savings association will be replenished without federal assistance.

"In default" means, with respect to a State or national bank or an insured savings association, any

adjudication or other official determination by any court of competent jurisdiction, the Commissioner, the appropriate federal banking agency, or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed for a State or national bank or an insured savings association.

"Insured savings association" means any federal savings association chartered under Section 5 of the federal Home Owners' Loan Act and any State savings association chartered under the Illinois Savings and Loan Act of 1985 or a predecessor Illinois statute, the deposits of which are insured by the Federal Deposit Insurance Corporation. The term also includes a savings bank organized or operating under the Savings Bank Act.

"Insured savings association in recovery" means an insured savings association that is not an eligible depository institution and that does not meet the minimum capital requirements applicable with respect to the insured savings association.

"Issuer" means for purposes of Section 33 every person who shall have issued or proposed to issue any security; except that (1) with respect to certificates of deposit, voting trust certificates, collateral-trust certificates, and certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions), "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust, agreement, or instrument under which the securities are issued; (2) with respect to trusts other than those specified in clause (1) above, where the trustee is a corporation authorized to accept and execute trusts, "issuer" means the entrusters, depositors, or creators of the trust and any manager or committee charged with the general direction of the affairs of the trust pursuant to the provisions of the agreement or instrument creating the trust; and (3) with respect to equipment trust certificates or like securities, "issuer" means the person to whom the equipment or property is or is to be leased or conditionally sold.

"Letter of credit" and "customer" shall have the meanings ascribed to those terms in Section 5-102 of the Uniform Commercial Code.

"Main banking premises" means the location that is designated in a bank's charter as its main office.

"Maker or obligor" means for purposes of Section 33 the issuer of a security, the promisor in a debenture or other debt security, or the mortgagor or grantor of a trust deed or similar conveyance of a security interest in real or personal property.

"Merged bank" means a merging bank that is not the continuing, resulting, or surviving bank in a consolidation or merger.

"Merger" includes consolidation.

"Merging bank" means a party to a bank merger.

"Merging trust company" means a trust company party to a merger with a State bank.

"Mid-tier bank holding company" means a corporation that (a) owns 100% of the issued and outstanding shares of each class of stock of a State bank, (b) has no other subsidiaries, and (c) 100% of the issued and outstanding shares of the corporation are owned by a parent bank holding company.

"Municipality" means any municipality, political subdivision, school district, taxing district, or agency.

"National bank" means a national banking association located in this State and after May 31, 1997, means a national banking association without regard to its location.

"Out-of-state bank" means a bank chartered under the laws of a state other than Illinois, a territory of the United States, or the District of Columbia.

"Parent bank holding company" means a corporation that is a bank holding company as that term is defined in the Illinois Bank Holding Company Act of 1957 and owns 100% of the issued and outstanding shares of a mid-tier bank holding company.

"Person" means an individual, corporation, limited liability company, partnership, joint venture, trust, estate, or unincorporated association.

"Public agency" means the State of Illinois, the various counties, townships, cities, towns, villages, school districts, educational service regions, special road districts, public water supply districts, fire protection districts, drainage districts, levee districts, sewer districts, housing authorities, the Illinois Bank Examiners' Education Foundation, the Chicago Park District, and all other political corporations or subdivisions of the State of Illinois, whether now or hereafter created, whether herein specifically mentioned or not, and shall also include any other state or any political corporation or subdivision of another state.

"Public funds" or "public money" means current operating funds, special funds, interest and sinking funds, and funds of any kind or character belonging to, in the custody of, or subject to the control or regulation of the United States or a public agency. "Public funds" or "public money" shall include funds

held by any of the officers, agents, or employees of the United States or of a public agency in the course of their official duties and, with respect to public money of the United States, shall include Postal Savings funds.

"Published" means, unless the context requires otherwise, the publishing of the notice or instrument referred to in some newspaper of general circulation in the community in which the bank is located at least once each week for 3 successive weeks. Publishing shall be accomplished by, and at the expense of, the bank required to publish. Where publishing is required, the bank shall submit to the Commissioner that evidence of the publication as the Commissioner shall deem appropriate.

"Qualified financial contract" means any security contract, commodity contract, forward contract, including spot and forward foreign exchange contracts, repurchase agreement, swap agreement, and any similar agreement, any option to enter into any such agreement, including any combination of the foregoing, and any master agreement for such agreements. A master agreement, together with all supplements thereto, shall be treated as one qualified financial contract. The contract, option, agreement, or combination of contracts, options, or agreements shall be reflected upon the books, accounts, or records of the bank, or a party to the contract shall provide documentary evidence of such agreement.

"Recorded" means the filing or recording of the notice or instrument referred to in the office of the Recorder of the county wherein the bank is located.

"Resulting bank" means the bank resulting from a merger or conversion.

"Secretary" means the Secretary of Financial and Professional Regulation, or a person authorized by the Secretary or by this Act to act in the Secretary's stead.

"Securities" means stocks, bonds, debentures, notes, or other similar obligations.

"Stand-by letter of credit" means a letter of credit under which drafts are payable upon the condition the customer has defaulted in performance of a duty, liability, or obligation.

"State bank" means any banking corporation that has a banking charter issued by the Commissioner under this Act.

"State Banking Board" means the State Banking Board of Illinois.

"Subsidiary" with respect to a specified company means a company that is controlled by the specified company. For purposes of paragraphs (8) and (12) of Section 5 of this Act, "control" means the exercise of operational or managerial control of a corporation by the bank, either alone or together with other affiliates of the bank.

"Surplus" means the aggregate of (i) amounts paid in excess of the par value of capital stock and preferred stock; (ii) amounts contributed other than for capital stock and preferred stock and allocated to the surplus account; and (iii) amounts transferred from undivided profits.

"Tier 1 Capital" and "Tier 2 Capital" have the meanings assigned to those terms in regulations promulgated for the appropriate federal banking agency of a state bank, as those regulations are now or hereafter amended.

"Trust company" means a limited liability company or corporation incorporated in this State for the purpose of accepting and executing trusts.

"Undivided profits" means undistributed earnings less discretionary transfers to surplus.

"Unimpaired capital and unimpaired surplus", for the purposes of paragraph (21) of Section 5 and Sections 32, 33, 34, 35.1, 35.2, and 47 of this Act means the sum of the state bank's Tier 1 Capital and Tier 2 Capital plus such other shareholder equity as may be included by regulation of the Commissioner. Unimpaired capital and unimpaired surplus shall be calculated on the basis of the date of the last quarterly call report filed with the Commissioner preceding the date of the transaction for which the calculation is made, provided that: (i) when a material event occurs after the date of the last quarterly call report filed with the Commissioner that reduces or increases the bank's unimpaired capital and unimpaired surplus by 10% or more, then the unimpaired capital and unimpaired surplus shall be calculated from the date of the material event for a transaction conducted after the date of the material event; and (ii) if the Commissioner determines for safety and soundness reasons that a state bank should calculate unimpaired capital and unimpaired surplus more frequently than provided by this paragraph, the Commissioner may by written notice direct the bank to calculate unimpaired capital and unimpaired surplus at a more frequent interval. In the case of a state bank newly chartered under Section 13 or a state bank resulting from a merger, consolidation, or conversion under Sections 21 through 26 for which no preceding quarterly call report has been filed with the Commissioner, unimpaired capital and unimpaired surplus shall be calculated for the first calendar quarter on the basis of the effective date of the charter, merger, consolidation, or conversion.

(Source: P.A. 92-483, eff. 8-23-01; 93-561, eff. 1-1-04.)

(205 ILCS 5/48) (from Ch. 17, par. 359)

Sec. 48. Secretary's ~~Commissioner's~~ powers; duties. The Secretary ~~Commissioner~~ shall have the

powers and authority, and is charged with the duties and responsibilities designated in this Act, and a State bank shall not be subject to any other visitorial power other than as authorized by this Act, except those vested in the courts, or upon prior consultation with the Secretary ~~Commissioner~~, a foreign bank regulator with an appropriate supervisory interest in the parent or affiliate of a state bank. In the performance of the Secretary's ~~Commissioner's~~ duties:

(1) The Commissioner shall call for statements from all State banks as provided in Section 47 at least one time during each calendar quarter.

(2) (a) The Commissioner, as often as the Commissioner shall deem necessary or proper, and no less frequently than 18 months following the preceding examination, shall appoint a suitable person or persons to make an examination of the affairs of every State bank, except that for every eligible State bank, as defined by regulation, the Commissioner in lieu of the examination may accept on an alternating basis the examination made by the eligible State bank's appropriate federal banking agency pursuant to Section 111 of the Federal Deposit Insurance Corporation Improvement Act of 1991, provided the appropriate federal banking agency has made such an examination. A person so appointed shall not be a stockholder or officer or employee of any bank which that person may be directed to examine, and shall have powers to make a thorough examination into all the affairs of the bank and in so doing to examine any of the officers or agents or employees thereof on oath and shall make a full and detailed report of the condition of the bank to the Commissioner. In making the examination the examiners shall include an examination of the affairs of all the affiliates of the bank, as defined in subsection (b) of Section 35.2 of this Act, or subsidiaries of the bank as shall be necessary to disclose fully the conditions of the subsidiaries or affiliates, the relations between the bank and the subsidiaries or affiliates and the effect of those relations upon the affairs of the bank, and in connection therewith shall have power to examine any of the officers, directors, agents, or employees of the subsidiaries or affiliates on oath. After May 31, 1997, the Commissioner may enter into cooperative agreements with state regulatory authorities of other states to provide for examination of State bank branches in those states, and the Commissioner may accept reports of examinations of State bank branches from those state regulatory authorities. These cooperative agreements may set forth the manner in which the other state regulatory authorities may be compensated for examinations prepared for and submitted to the Commissioner.

(b) After May 31, 1997, the Commissioner is authorized to examine, as often as the Commissioner shall deem necessary or proper, branches of out-of-state banks. The Commissioner may establish and may assess fees to be paid to the Commissioner for examinations under this subsection (b). The fees shall be borne by the out-of-state bank, unless the fees are borne by the state regulatory authority that chartered the out-of-state bank, as determined by a cooperative agreement between the Commissioner and the state regulatory authority that chartered the out-of-state bank.

(2.5) Whenever any State bank, any subsidiary or affiliate of a State bank, or after May 31, 1997, any branch of an out-of-state bank causes to be performed, by contract or otherwise, any bank services for itself, whether on or off its premises:

(a) that performance shall be subject to examination by the Commissioner to the same extent as if services were being performed by the bank or, after May 31, 1997, branch of the out-of-state bank itself on its own premises; and

(b) the bank or, after May 31, 1997, branch of the out-of-state bank shall notify the Commissioner of the existence of a service relationship. The notification shall be submitted with the first statement of condition (as required by Section 47 of this Act) due after the making of the service contract or the performance of the service, whichever occurs first. The Commissioner shall be notified of each subsequent contract in the same manner.

For purposes of this subsection (2.5), the term "bank services" means services such as sorting and posting of checks and deposits, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, or similar functions performed for a State bank, including but not limited to electronic data processing related to those bank services.

(3) The expense of administering this Act, including the expense of the examinations of State banks as provided in this Act, shall to the extent of the amounts resulting from the fees provided for in paragraphs (a), (a-2), and (b) of this subsection (3) be assessed against and borne by the State banks:

(a) Each bank shall pay to the Secretary ~~Commissioner~~ a Call Report Fee which shall be paid in quarterly installments equal to one-fourth of the sum of the annual fixed fee of $800, plus a variable fee based on the assets shown on the quarterly statement of condition delivered to the Secretary ~~Commissioner~~ in accordance with Section 47 for the preceding quarter according to the following schedule: 16¢ per

$1,000 of the first $5,000,000 of total assets, 15¢ per $1,000 of the next $20,000,000 of total assets, 13¢ per $1,000 of the next $75,000,000 of total assets, 9¢ per $1,000 of the next $400,000,000 of total assets, 7¢ per $1,000 of the next $500,000,000 of total assets, and 5¢ per $1,000 of all assets in excess of $1,000,000,000, of the State bank. The Call Report Fee shall be calculated by the Secretary ~~Commissioner~~ and billed to the banks for remittance at the time of the quarterly statements of condition provided for in Section 47. The Secretary ~~Commissioner~~ may require payment of the fees provided in this Section by an electronic transfer of funds or an automatic debit of an account of each of the State banks. In case more than one examination of any bank is deemed by the Secretary ~~Commissioner~~ to be necessary in any examination frequency cycle specified in subsection 2(a) of this Section, and is performed at his direction, the Secretary ~~Commissioner~~ may assess a reasonable additional fee to recover the cost of the additional examination; provided, however, that an examination conducted at the request of the State Treasurer pursuant to the Uniform Disposition of Unclaimed Property Act shall not be deemed to be an additional examination under this Section. In lieu of the method and amounts set forth in this paragraph (a) for the calculation of the Call Report Fee, the Secretary ~~Commissioner~~ may specify by rule that the Call Report Fees provided by this Section may be assessed semiannually or some other period and may provide in the rule the formula to be used for calculating and assessing the periodic Call Report Fees to be paid by State banks. For the fiscal year beginning July 1, 2007, and continuing thereafter through January 10, 2011, the Secretary shall adopt emergency and general rules to adjust regulatory fee rates to an amount that shall not exceed by more than 13.5% the rates in effect prior to the escalation in rates implemented by an amendment to 38 Ill. Adm. Code 375 published in 27 Ill. Reg. 16024, Oct. 10, 2003. The adoption of emergency rules authorized by this subsection (3) shall be deemed necessary for the public interest, safety, and welfare, in order to provide for the expeditious and timely implementation of the State's fiscal year budget through the transfer from the Bank and Trust Company Fund to the General Revenue Fund authorized by this amendatory Act of the 95th General Assembly.

(a-1) If in the opinion of the Commissioner an emergency exists or appears likely, the Commissioner may assign an examiner or examiners to monitor the affairs of a State bank with whatever frequency he deems appropriate, including but not limited to a daily basis. The reasonable and necessary expenses of the Commissioner during the period of the monitoring shall be borne by the subject bank. The Commissioner shall furnish the State bank a statement of time and expenses if requested to do so within 30 days of the conclusion of the monitoring period.

(a-2) On and after January 1, 1990, the reasonable and necessary expenses of the Commissioner during examination of the performance of electronic data processing services under subsection (2.5) shall be borne by the banks for which the services are provided. An amount, based upon a fee structure prescribed by the Commissioner, shall be paid by the banks or, after May 31, 1997, branches of out-of-state banks receiving the electronic data processing services along with the Call Report Fee assessed under paragraph (a) of this subsection (3).

(a-3) After May 31, 1997, the reasonable and necessary expenses of the Commissioner during examination of the performance of electronic data processing services under subsection (2.5) at or on behalf of branches of out-of-state banks shall be borne by the out-of-state banks, unless those expenses are borne by the state regulatory authorities that chartered the out-of-state banks, as determined by cooperative agreements between the Commissioner and the state regulatory authorities that chartered the out-of-state banks.

(b) "Fiscal year" for purposes of this Section 48 is defined as a period beginning July 1 of any year and ending June 30 of the next year. The Commissioner shall receive for each fiscal year, commencing with the fiscal year ending June 30, 1987, a contingent fee equal to the lesser of the aggregate of the fees paid by all State banks under paragraph (a) of subsection (3) for that year, or the amount, if any, whereby the aggregate of the administration expenses, as defined in paragraph (c), for that fiscal year exceeds the sum of the aggregate of the fees payable by all State banks for that year under paragraph (a) of subsection (3), plus any amounts transferred into the Bank and Trust Company Fund from the State Pensions Fund for that year, plus all other amounts collected by the Commissioner for that year under any other provision of this Act, plus the aggregate of all fees collected for that year by the Commissioner under the Corporate Fiduciary Act, excluding the receivership fees provided for in Section 5-10 of the Corporate Fiduciary Act, and the Foreign Banking Office Act. The aggregate amount of the contingent fee thus arrived at for any fiscal year shall be apportioned amongst, assessed upon, and paid by the State banks and foreign banking corporations, respectively, in the same proportion that the fee of each under paragraph (a) of subsection (3), respectively, for that year bears to the aggregate for that year of the fees collected under paragraph (a) of subsection (3). The aggregate amount of the contingent fee, and the portion

thereof to be assessed upon each State bank and foreign banking corporation, respectively, shall be determined by the Commissioner and shall be paid by each, respectively, within 120 days of the close of the period for which the contingent fee is computed and is payable, and the Commissioner shall give 20 days advance notice of the amount of the contingent fee payable by the State bank and of the date fixed by the Commissioner for payment of the fee.

(c) The "administration expenses" for any fiscal year shall mean the ordinary and contingent expenses for that year incident to making the examinations provided for by, and for otherwise administering, this Act, the Corporate Fiduciary Act, excluding the expenses paid from the Corporate Fiduciary Receivership account in the Bank and Trust Company Fund, the Foreign Banking Office Act, the Electronic Fund Transfer Act, and the Illinois Bank Examiners' Education Foundation Act, including all salaries and other compensation paid for personal services rendered for the State by officers or employees of the State, including the Commissioner and the Deputy Commissioners, all expenditures for telephone and telegraph charges, postage and postal charges, office stationery, supplies and services, and office furniture and equipment, including typewriters and copying and duplicating machines and filing equipment, surety bond premiums, and travel expenses of those officers and employees, employees, expenditures or charges for the acquisition, enlargement or improvement of, or for the use of, any office space, building, or structure, or expenditures for the maintenance thereof or for furnishing heat, light, or power with respect thereto, all to the extent that those expenditures are directly incidental to such examinations or administration. The Commissioner shall not be required by paragraphs (c) or (d-1) of this subsection (3) to maintain in any fiscal year's budget appropriated reserves for accrued vacation and accrued sick leave that is required to be paid to employees of the Commissioner upon termination of their service with the Commissioner in an amount that is more than is reasonably anticipated to be necessary for any anticipated turnover in employees, whether due to normal attrition or due to layoffs, terminations, or resignations.

(d) The aggregate of all fees collected by the Secretary ~~Commissioner~~ under this Act, the Corporate Fiduciary Act, or the Foreign Banking Office Act on and after July 1, 1979, shall be paid promptly after receipt of the same, accompanied by a detailed statement thereof, into the State treasury and shall be set apart in a special fund to be known as the "Bank and Trust Company Fund", except as provided in paragraph (c) of subsection (11) of this Section. All earnings received from investments of funds in the Bank and Trust Company Fund shall be deposited in the Bank and Trust Company Fund and may be used for the same purposes as fees deposited in that Fund. The amount from time to time deposited into the Bank and Trust Company Fund shall be used: (i) to offset the ordinary administrative expenses of the Secretary ~~Commissioner of Banks and Real Estate~~ as defined in this Section or (ii) as a credit against fees under paragraph (d-1) of this subsection (3). Nothing in this amendatory Act of 1979 shall prevent continuing the practice of paying expenses involving salaries, retirement, social security, and State-paid insurance premiums of State officers by appropriations from the General Revenue Fund. However, the General Revenue Fund shall be reimbursed for those payments made on and after July 1, 1979, by an annual transfer of funds from the Bank and Trust Company Fund. Moneys in the Bank and Trust Company Fund may be transferred to the Professions Indirect Cost Fund, as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois. Notwithstanding provisions in the State Finance Act, as now or hereafter amended, or any other law to the contrary: (A) the sum of $18,788,847 shall be transferred from the Bank and Trust Company Fund to the General Revenue Fund on the effective date of this amendatory Act of the 95th General Assembly, or as soon thereafter as practical; (B) the Governor may, during any fiscal year through January 10, 2011, from time to time direct the State Treasurer and Comptroller to transfer a specified sum not exceeding 10% of the revenues to be deposited into the Bank and Trust Company Fund during that fiscal year from that Fund to the General Revenue Fund in order to help defray the State's operating costs for the fiscal year; and (C) the total sum transferred during any fiscal year through January 10, 2011, from the Bank and Trust Company Fund to the General Revenue Fund pursuant to provision (B) of paragraph (d) of this subsection (3) shall not exceed during any fiscal year 10% of the revenues to be deposited into the Bank and Trust Company Fund during that fiscal year.

The State Treasurer and Comptroller shall transfer the amounts designated under this Section as soon as may be practicable after receiving the direction to transfer from the Governor.

(d-1) Adequate funds shall be available in the Bank and Trust Company Fund to permit the timely payment of administration expenses. In each fiscal year the total administration expenses shall be deducted from the total fees collected by the Commissioner and the remainder transferred into the Cash Flow Reserve Account, unless the balance of the Cash Flow Reserve Account prior to the transfer equals or exceeds one-fourth of the total initial appropriations from the Bank and Trust

Company Fund for the subsequent year, in which case the remainder shall be credited to State banks and foreign banking corporations and applied against their fees for the subsequent year. The amount credited to each State bank and foreign banking corporation shall be in the same proportion as the Call Report Fees paid by each for the year bear to the total Call Report Fees collected for the year. If, after a transfer to the Cash Flow Reserve Account is made or if no remainder is available for transfer, the balance of the Cash Flow Reserve Account is less than one-fourth of the total initial appropriations for the subsequent year and the amount transferred is less than 5% of the total Call Report Fees for the year, additional amounts needed to make the transfer equal to 5% of the total Call Report Fees for the year shall be apportioned amongst, assessed upon, and paid by the State banks and foreign banking corporations in the same proportion that the Call Report Fees of each, respectively, for the year bear to the total Call Report Fees collected for the year. The additional amounts assessed shall be transferred into the Cash Flow Reserve Account. For purposes of this paragraph (d-1), the calculation of the fees collected by the Commissioner shall exclude the receivership fees provided for in Section 5-10 of the Corporate Fiduciary Act.

(e) The Commissioner may upon request certify to any public record in his keeping and shall have authority to levy a reasonable charge for issuing certifications of any public record in his keeping.

(f) In addition to fees authorized elsewhere in this Act, the Commissioner may, in connection with a review, approval, or provision of a service, levy a reasonable charge to recover the cost of the review, approval, or service.

(4) Nothing contained in this Act shall be construed to limit the obligation relative to examinations and reports of any State bank, deposits in which are to any extent insured by the United States or any agency thereof, nor to limit in any way the powers of the Commissioner with reference to examinations and reports of that bank.

(5) The nature and condition of the assets in or investment of any bonus, pension, or profit sharing plan for officers or employees of every State bank or, after May 31, 1997, branch of an out-of-state bank shall be deemed to be included in the affairs of that State bank or branch of an out-of-state bank subject to examination by the Commissioner under the provisions of subsection (2) of this Section, and if the Commissioner shall find from an examination that the condition of or operation of the investments or assets of the plan is unlawful, fraudulent, or unsafe, or that any trustee has abused his trust, the Commissioner shall, if the situation so found by the Commissioner shall not be corrected to his satisfaction within 60 days after the Commissioner has given notice to the board of directors of the State bank or out-of-state bank of his findings, report the facts to the Attorney General who shall thereupon institute proceedings against the State bank or out-of-state bank, the board of directors thereof, or the trustees under such plan as the nature of the case may require.

(6) The Commissioner shall have the power:

(a) To promulgate reasonable rules for the purpose of administering the provisions of this Act.

(a-5) To impose conditions on any approval issued by the Commissioner if he determines that the conditions are necessary or appropriate. These conditions shall be imposed in writing and shall continue in effect for the period prescribed by the Commissioner.

(b) To issue orders against any person, if the Commissioner has reasonable cause to believe that an unsafe or unsound banking practice has occurred, is occurring, or is about to occur, if any person has violated, is violating, or is about to violate any law, rule, or written agreement with the Commissioner, or for the purpose of administering the provisions of this Act and any rule promulgated in accordance with this Act.

(b-1) To enter into agreements with a bank establishing a program to correct the condition of the bank or its practices.

(c) To appoint hearing officers to execute any of the powers granted to the Commissioner under this Section for the purpose of administering this Act and any rule promulgated in accordance with this Act and otherwise to authorize, in writing, an officer or employee of the Office of Banks and Real Estate to exercise his powers under this Act.

(d) To subpoena witnesses, to compel their attendance, to administer an oath, to examine any person under oath, and to require the production of any relevant books, papers, accounts, and documents in the course of and pursuant to any investigation being conducted, or any action being taken, by the Commissioner in respect of any matter relating to the duties imposed upon, or the powers vested in, the Commissioner under the provisions of this Act or any rule promulgated in accordance with this Act.

(e) To conduct hearings.

(7) Whenever, in the opinion of the Commissioner, any director, officer, employee, or agent of a State bank or any subsidiary or bank holding company of the bank or, after May 31, 1997, of any branch of an out-of-state bank or any subsidiary or bank holding company of the bank shall have violated any law, rule, or order relating to that bank or any subsidiary or bank holding company of the bank, shall have obstructed or impeded any examination or investigation by the Commissioner, shall have engaged in an unsafe or unsound practice in conducting the business of that bank or any subsidiary or bank holding company of the bank, or shall have violated any law or engaged or participated in any unsafe or unsound practice in connection with any financial institution or other business entity such that the character and fitness of the director, officer, employee, or agent does not assure reasonable promise of safe and sound operation of the State bank, the Commissioner may issue an order of removal. If, in the opinion of the Commissioner, any former director, officer, employee, or agent of a State bank or any subsidiary or bank holding company of the bank, prior to the termination of his or her service with that bank or any subsidiary or bank holding company of the bank, violated any law, rule, or order relating to that State bank or any subsidiary or bank holding company of the bank, obstructed or impeded any examination or investigation by the Commissioner, engaged in an unsafe or unsound practice in conducting the business of that bank or any subsidiary or bank holding company of the bank, or violated any law or engaged or participated in any unsafe or unsound practice in connection with any financial institution or other business entity such that the character and fitness of the director, officer, employee, or agent would not have assured reasonable promise of safe and sound operation of the State bank, the Commissioner may issue an order prohibiting that person from further service with a bank or any subsidiary or bank holding company of the bank as a director, officer, employee, or agent. An order issued pursuant to this subsection shall be served upon the director, officer, employee, or agent. A copy of the order shall be sent to each director of the bank affected by registered mail. The person affected by the action may request a hearing before the State Banking Board within 10 days after receipt of the order. The hearing shall be held by the Board within 30 days after the request has been received by the Board. The Board shall make a determination approving, modifying, or disapproving the order of the Commissioner as its final administrative decision. If a hearing is held by the Board, the Board shall make its determination within 60 days from the conclusion of the hearing. Any person affected by a decision of the Board under this subsection (7) of Section 48 of this Act may have the decision reviewed only under and in accordance with the Administrative Review Law and the rules adopted pursuant thereto. A copy of the order shall also be served upon the bank of which he is a director, officer, employee, or agent, whereupon he shall cease to be a director, officer, employee, or agent of that bank. The Commissioner may institute a civil action against the director, officer, or agent of the State bank or, after May 31, 1997, of the branch of the out-of-state bank against whom any order provided for by this subsection (7) of this Section 48 has been issued, and against the State bank or, after May 31, 1997, out-of-state bank, to enforce compliance with or to enjoin any violation of the terms of the order. Any person who has been the subject of an order of removal or an order of prohibition issued by the Commissioner under this subsection or Section 5-6 of the Corporate Fiduciary Act may not thereafter serve as director, officer, employee, or agent of any State bank or of any branch of any out-of-state bank, or of any corporate fiduciary, as defined in Section 1-5.05 of the Corporate Fiduciary Act, or of any other entity that is subject to licensure or regulation by the Commissioner or the Office of Banks and Real Estate unless the Commissioner has granted prior approval in writing.

For purposes of this paragraph (7), "bank holding company" has the meaning prescribed in Section 2 of the Illinois Bank Holding Company Act of 1957.

(8) The Commissioner may impose civil penalties of up to $10,000 against any person for each violation of any provision of this Act, any rule promulgated in accordance with this Act, any order of the Commissioner, or any other action which in the Commissioner's discretion is an unsafe or unsound banking practice.

(9) The Commissioner may impose civil penalties of up to $100 against any person for the first failure to comply with reporting requirements set forth in the report of examination of the bank and up to $200 for the second and subsequent failures to comply with those reporting requirements.

(10) All final administrative decisions of the Commissioner hereunder shall be subject to judicial review pursuant to the provisions of the Administrative Review Law. For matters involving administrative review, venue shall be in either Sangamon County or Cook County.

(11) The endowment fund for the Illinois Bank Examiners' Education Foundation shall be administered as follows:

(a) (Blank).

(b) The Foundation is empowered to receive voluntary contributions, gifts, grants, bequests, and donations on behalf of the Illinois Bank Examiners' Education Foundation from national

banks and other persons for the purpose of funding the endowment of the Illinois Bank Examiners' Education Foundation.

(c) The aggregate of all special educational fees collected by the Commissioner and property received by the Commissioner on behalf of the Illinois Bank Examiners' Education Foundation under this subsection (11) on or after June 30, 1986, shall be either (i) promptly paid after receipt of the same, accompanied by a detailed statement thereof, into the State Treasury and shall be set apart in a special fund to be known as "The Illinois Bank Examiners' Education Fund" to be invested by either the Treasurer of the State of Illinois in the Public Treasurers' Investment Pool or in any other investment he is authorized to make or by the Illinois State Board of Investment as the board of trustees of the Illinois Bank Examiners' Education Foundation may direct or (ii) deposited into an account maintained in a commercial bank or corporate fiduciary in the name of the Illinois Bank Examiners' Education Foundation pursuant to the order and direction of the Board of Trustees of the Illinois Bank Examiners' Education Foundation.

(12) (Blank).

(Source: P.A. 94-91, eff. 7-1-05.)

Section 10. The Illinois Savings and Loan Act of 1985 is amended by adding Section 1-10.39 and by changing Sections 7-3, and 7-19.1 as follows:

(205 ILCS 105/1-10.39 new)

Sec. 1-10.39. Secretary of the Department of Financial and Professional Regulation. For purposes of this Act, "Secretary" means the Secretary of the Department of Financial and Professional Regulation, or a person authorized by the Secretary or by this Act to act in the Secretary's stead.

(205 ILCS 105/7-3) (from Ch. 17, par. 3307-3)

Sec. 7-3. Personnel, records, files, actions and duties, etc.

(a) The Secretary ~~Commissioner~~ shall appoint, subject to applicable provisions of the Personnel Code, a supervisor, such examiners, employees, experts and special assistants as may be necessary to carry out effectively this Act. The Secretary ~~Commissioner~~ shall require each supervisor, examiner, expert and special assistant employed or appointed by him to give bond, with security to be approved by the Secretary ~~Commissioner~~, not less in any case than $15,000, conditioned for the faithful discharge of his duties. The premium on such bond shall be paid by the Secretary ~~Commissioner~~ from funds appropriated for that purpose. The bond, along with verification of payment of the premium on such bond, shall be filed in the office of the Secretary of State.

(b) The Secretary ~~Commissioner~~ shall have the following duties and powers:

(1) To exercise the rights, powers and duties set forth in this Act or in any other related Act;

(2) To establish such regulations as may be reasonable or necessary to accomplish the purposes of this Act;

(3) To direct and supervise all the administrative and technical activities of this office and create an Advisory Committee which upon request will make recommendations to him;

(4) To make an annual report regarding the work of his office as he may consider desirable to the Governor, or as the Governor may request;

(5) To cause a suit to be filed in his name to enforce any law of this State that applies to an association, subsidiary of an association, or holding company operating under this Act and shall include the enforcement of any obligation of the officers, directors or employees of any association;

(6) To prescribe a uniform manner in which the books and records of every association are to be maintained; and

(7) To establish reasonable and rationally based fee structures for each association and holding company operating under this Act and for their service corporations and subsidiaries, which fees shall include but not be limited to annual fees, application fees, regular and special examination fees, and such other fees as the Secretary ~~Commissioner~~ establishes and demonstrates to be directly resultant from his responsibilities under this Act and as are directly attributable to individual entities operating under this Act. For the fiscal year beginning July 1, 2007, and continuing thereafter through January 10, 2011, the Secretary shall adopt emergency and general rules to adjust regulatory fee rates to an amount that shall not exceed by more than 13.5% the rates in effect prior to the escalation in rates implemented by an amendment to 38 Ill. Adm. Code 1000 published in 27 Ill. Reg. 16029, Oct. 10, 2003. The adoption of emergency rules authorized by this subsection (b) shall be deemed necessary for the public interest, safety, and welfare, in order to provide for the expeditious and timely implementation of the State's fiscal year budget through the transfer from the Savings and Residential Finance Regulatory Fund to the General Revenue Fund authorized by this amendatory Act of the 95th General Assembly.

(Source: P.A. 85-313.)

(205 ILCS 105/7-19.1) (from Ch. 17, par. 3307-19.1)

Sec. 7-19.1. Savings and Residential Finance Regulatory Fund.

(a) The aggregate of all fees collected by the Secretary ~~Commissioner~~ under this Act shall be paid promptly after receipt of the same, accompanied by a detailed statement thereof, into the State treasury and shall be set apart in the Savings and Residential Finance Regulatory Fund, a special fund hereby created in the State treasury. The amounts deposited into the Fund shall be used for the ordinary and contingent expenses of the Department of Financial and Professional Regulation and the Division of Banking, or their successors, in administering and enforcing the Illinois Savings and Loan Act of 1985, the Savings Bank Act, and the Residential Mortgage License Act of 1987 and other laws, rules, and regulations as may apply to the administration and enforcement of the foregoing laws, rules, and regulations as amended from time to time ~~Office of Banks and Real Estate~~. Nothing in this Act shall prevent continuing the practice of paying expenses involving salaries, retirement, social security, and State-paid insurance of State officers by appropriation from the General Revenue Fund.

(b) Except as otherwise provided in subsection (b-5), moneys in the Savings and Residential Finance Regulatory Fund may not be appropriated, assigned, or transferred to another State fund. The moneys in the Fund shall be for the sole benefit of the institutions assessed.

(b-5) Moneys in the Savings and Residential Finance Regulatory Fund may be transferred to the Professions Indirect Cost Fund, as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

(b-10) Notwithstanding provisions in the State Finance Act, as now or hereafter amended, or any other law to the contrary: (i) The sum of $27,481,638 shall be transferred from the Savings and Residential Finance Regulatory Fund to the General Revenue Fund on the effective date of this amendatory Act of the 95th General Assembly, or as soon thereafter as practical; (ii) the Governor may, during any fiscal year through January 10, 2011, from time to time direct the State Treasurer and Comptroller to transfer a specified sum not exceeding 10% of the revenues to be deposited into the Savings and Residential Finance Regulatory Fund during that fiscal year from that Fund to the General Revenue Fund in order to help defray the State's operating costs for the fiscal year; and (iii) the total sum transferred during any fiscal year through January 10, 2011, from the Savings and Residential Finance Regulatory Fund to the General Revenue Fund pursuant to item (ii) of this subsection (b-10) shall not exceed during any fiscal year 10% of the revenues to be deposited into the Savings and Residential Finance Regulatory Fund during that fiscal year.

The State Treasurer and Comptroller shall transfer the amounts designated under this Section as soon as may be practicable after receiving the direction to transfer from the Governor.

(c) All earnings received from investments of funds in the Savings and Residential Finance Regulatory Fund shall be deposited into the Savings and Residential Finance Regulatory Fund and may be used for the same purposes as fees deposited into that Fund.

(d) When the balance in the Savings and Residential Finance Regulatory Fund at the end of a fiscal year apportioned to the fees collected under the Illinois Savings and Loan Act of 1985 and the Savings Bank Act exceeds 25% of the total actual administrative and operational expenses incurred by the State for that fiscal year in administering and enforcing the Illinois Savings and Loan Act of 1985 and the Savings Bank Act and such other laws, rules, and regulations as may apply to the administration and enforcement of the foregoing laws, rules, and regulations, the excess shall be credited to the appropriate institutions and entities and applied against their regulatory fees for the subsequent fiscal year. The amount credited to each institution or entity shall be in the same proportion that the regulatory fees paid by the institution or entity for the fiscal year in which the excess is produced bear to the aggregate amount of all fees collected by the Secretary under the Illinois Savings and Loan Act of 1985 and the Savings Bank Act for the same fiscal year. For the purpose of this Section, "fiscal year" means the period beginning July 1 of any year and ending June 30 of the next calendar year.

(Source: P.A. 94-91, eff. 7-1-05.)

Section 15. The Savings Bank Act is amended by adding Section 1007.135 and by changing Section 9002 as follows:

(205 ILCS 205/1007.135 new)

Sec. 1007.135. Secretary of the Department of Financial and Professional Regulation. "Secretary" means the Secretary of the Department of Financial and Professional Regulation, or a person authorized by the Secretary or by this Act to act in the Secretary's stead.

(205 ILCS 205/9002) (from Ch. 17, par. 7309-2)

Sec. 9002. Powers of Secretary ~~Commissioner~~. The Secretary ~~Commissioner~~ shall have the following powers and duties:

(1) To exercise the rights, powers, and duties set forth in this Act or in any related Act.

(2) To establish regulations as may be reasonable or necessary to accomplish the purposes of this Act.

(3) To make an annual report regarding the work of his office under this Act as he may consider desirable to the Governor, or as the Governor may request.

(4) To cause a suit to be filed in his name to enforce any law of this State that applies to savings banks, their service corporations, subsidiaries, affiliates, or holding companies operating under this Act, including the enforcement of any obligation of the officers, directors, agents, or employees of any savings bank.

(5) To prescribe a uniform manner in which the books and records of every savings bank are to be maintained.

(6) To establish a reasonable fee structure for savings banks and holding companies operating under this Act and for their service corporations and subsidiaries. The fees shall include, but not be limited to, annual fees, application fees, regular and special examination fees, and other fees as the Secretary ~~Commissioner~~ establishes and demonstrates to be directly resultant from the Secretary's ~~Commissioner's~~ responsibilities under this Act and as are directly attributable to individual entities operating under this Act. The aggregate of all fees collected by the Secretary ~~Commissioner~~ on and after the effective date of this Act shall be paid promptly after receipt of the same, accompanied by a detailed statement thereof, into the Savings and Residential Finance Regulatory Fund subject to the provisions of Section 7-19.1 of the Illinois Savings and Loan Act of 1985 including without limitation the provision for credits against regulatory fees. The amounts deposited into the Fund shall be used for the ordinary and contingent expenses of the Office of Banks and Real Estate. Nothing in this Act shall prevent continuing the practice of paying expenses involving salaries, retirement, social security, and State-paid insurance of State officers by appropriation from the General Revenue Fund. For the fiscal year beginning July 1, 2007, and continuing thereafter through January 10, 2011, the Secretary shall adopt emergency and general rules to adjust regulatory fee rates to an amount that shall not exceed by more than 13.5% the rates in effect prior to the escalation in rates implemented by an amendment to 38 Ill. Adm. Code 1075 published in 27 Ill. Reg. 16043, Oct. 10, 2003. The adoption of emergency rules authorized by this subsection (6) shall be deemed necessary for the public interest, safety, and welfare in order to provide for the expeditious and timely implementation of the State's fiscal year budget through the transfer from the Savings and Residential Finance Regulatory Fund to the General Revenue Fund authorized by this amendatory Act of the 95th General Assembly.

(Source: P.A. 89-508, eff. 7-3-96.)

Section 20. The Illinois Credit Union Act is amended by changing Sections 1.1 and 12 as follows:

(205 ILCS 305/1.1) (from Ch. 17, par. 4402)

Sec. 1.1. Definitions.

Credit Union - The term "credit union" means a cooperative, non-profit association, incorporated under this Act, under the laws of the United States of America or under the laws of another state, for the purposes of encouraging thrift among its members, creating a source of credit at a reasonable rate of interest, and providing an opportunity for its members to use and control their own money in order to improve their economic and social conditions. The membership of a credit union shall consist of a group or groups each having a common bond as set forth in this Act.

Common Bond - The term "common bond" refers to groups of people who meet one of the following qualifications:

(1) Persons belonging to a specific association, group or organization, such as a church, labor union, club or society and members of their immediate families which shall include any relative by blood or marriage or foster and adopted children.

(2) Persons who reside in a reasonably compact and well defined neighborhood or community, and members of their immediate families which shall include any relative by blood or marriage or foster and adopted children.

(3) Persons who have a common employer or who are members of an organized labor union or an organized occupational or professional group within a defined geographical area, and members of their immediate families which shall include any relative by blood or marriage or foster and adopted children.

Shares - The term "shares" or "share accounts" means any form of shares issued by a credit union and established by a member in accordance with standards specified by a credit union, including but not limited to common shares, share draft accounts, classes of shares, share certificates, special purpose share accounts, shares issued in trust, custodial accounts, and individual retirement accounts or other plans established pursuant to Section 401(d) or (f) or Section 408(a) of the Internal Revenue Code, as

now or hereafter amended, or similar provisions of any tax laws of the United States that may hereafter exist.

Credit Union Organization - The term "credit union organization" means any organization established to serve the needs of credit unions, the business of which relates to the daily operations of credit unions.

Department - The term "Department" means the Illinois Department of Financial Institutions.

Director - The term "Director" means the Director of the Illinois Department of Financial Institutions, except that beginning on the effective date of this amendatory Act of the 95th General Assembly, all references in this Act to the Director of the Department of Financial Institutions are deemed, in appropriate contexts, to be references to the Secretary of Financial and Professional Regulation.

NCUA - The term "NCUA" means the National Credit Union Administration, an agency of the United States Government charged with the supervision of credit unions chartered under the laws of the United States of America.

Central Credit Union - The term "central credit union" means a credit union incorporated primarily to receive shares from and make loans to credit unions and Directors, Officers, committee members and employees of credit unions. A central credit union may also accept as members persons who were members of credit unions which were liquidated and persons from occupational groups not otherwise served by another credit union.

Corporate Credit Union - The term "corporate credit union" means a credit union which is a cooperative, non-profit association, the membership of which is limited primarily to other credit unions.

Insolvent - "Insolvent" means the condition that results when the total of all liabilities and shares exceeds net assets of the credit union.

Danger of insolvency - For purposes of Section 61, a credit union is in "danger of insolvency" if its net worth to asset ratio falls below 2%. In calculating the danger of insolvency ratio, secondary capital shall be excluded. For purposes of Section 61, a credit union is also in "danger of insolvency" if the Department is unable to ascertain, upon examination, the true financial condition of the credit union.

Net Worth - "Net worth" means the retained earnings balance of the credit union, as determined under generally accepted accounting principles, and forms of secondary capital approved by the Director pursuant to rulemaking.

Secretary - The term "Secretary" means the Secretary of the Department of Financial and Professional Regulation, or a person authorized by the Secretary or this Act to act in the Secretary's stead.

(Source: P.A. 92-608, eff. 7-1-02.)

(205 ILCS 305/12) (from Ch. 17, par. 4413)

Sec. 12. Regulatory fees.

(1) For the fiscal year beginning July 1, 2007, a ~~A~~ credit union regulated by the Department shall pay a regulatory fee to the Department based upon its total assets as shown by its Year-end Call Report at the following rates or at a lesser rate established by the Secretary in a manner proportionately consistent with the following rates and sufficient to fund the actual administrative and operational expenses of the Credit Union Section pursuant to subsection (4) of this Section:

TOTAL ASSETS	REGULATORY FEE
$25,000 or less	$100
Over $25,000 and not over $100,000	$100 plus $4 per $1,000 of assets in excess of $25,000
Over $100,000 and not over $200,000	$400 plus $3 per $1,000 of assets in excess of $100,000
Over $200,000 and not over $500,000	$700 plus $2 per $1,000 of assets in excess of $200,000
Over $500,000 and not over $1,000,000	$1,300 plus $1.40 per $1,000 of assets in excess of $500,000
Over $1,000,000 and not over $5,000,000.....	$2,000 plus $0.50 per $1,000 of assets in

	excess of $1,000,000
Over $5,000,000 and not over $30,000,000	$4,540 ~~$5,080~~ plus $0.397 ~~$0.44~~ per $1,000 assets in excess of $5,000,000
Over $30,000,000 and not over $100,000,000.....	$14,471 ~~$16,192~~ plus $0.34 ~~$0.38~~ per $1,000 of assets in excess of $30,000,000
Over $100,000,000 and not over $500,000,000	$38,306 ~~$42,862~~ plus $0.17 ~~$0.19~~ per $1,000 of assets in excess of $100,000,000
Over $500,000,000	$106,406 ~~$140,625~~ plus $0.056 ~~$0.075~~ per $1,000 of assets in excess of $500,000,000

(2) The Secretary ~~Director~~ shall review the regulatory fee schedule in subsection (1) and the projected earnings on those fees on an annual basis and adjust the fee schedule no more than 5% annually if necessary to defray the estimated administrative and operational expenses of the Credit Union Section of the Department as defined in subsection (5). However, the fee schedule shall not be increased if the amount remaining in the Credit Union Fund at the end of any fiscal year is greater than 25% of the total actual and operational expenses incurred by the State in administering and enforcing the Illinois Credit Union Act and other laws, rules, and regulations as may apply to the administration and enforcement of the foregoing laws, rules, and regulations as amended from time to time for the preceding fiscal year. The regulatory fee for the next fiscal year shall be calculated by the Secretary based on the credit union's total assets as of December 31 of the preceding calendar year. The Secretary ~~Director~~ shall provide credit unions with written notice of any adjustment made in the regulatory fee schedule.

(3) Beginning with the calendar quarter commencing on January 1, 2009 ~~Not later than March 1 of each calendar year~~, a credit union shall pay to the Department a regulatory fee in quarterly installments equal to one-fourth of the regulatory fee due ~~for that calendar year~~ in accordance with the regulatory fee schedule in subsection (1), on the basis of assets as of the Year-end Call Report of the preceding calendar year. The total annual regulatory fee shall not be less than $100 or more than $141,875 ~~$187,500~~, provided that the regulatory fee cap of $141,875 ~~$187,500~~ shall be adjusted to incorporate the same percentage increase as the Secretary ~~Director~~ makes in the regulatory fee schedule from time to time under subsection (2). No regulatory fee shall be collected from a credit union until it has been in operation for one year. The regulatory fee shall be billed to credit unions on a quarterly basis commencing with the quarter ending March 31, 2009, and it shall be payable by credit unions on the due date for the Call Report for the subject quarter.

(4) The aggregate of all fees collected by the Department under this Act shall be paid promptly after they are received, accompanied by a detailed statement thereof, into the State Treasury and shall be set apart in the Credit Union Fund, a special fund hereby created in the State treasury. The amount from time to time deposited in the Credit Union Fund and shall be used to offset the ordinary administrative and operational expenses of the Credit Union Section of the Department under this Act. All earnings received from investments of funds in the Credit Union Fund shall be deposited into the Credit Union Fund and may be used for the same purposes as fees deposited into that Fund. Moneys deposited in the Credit Union Fund may be transferred to the Professions Indirect Cost Fund, as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois. Notwithstanding provisions in the State Finance Act, as now or hereafter amended, or any other law to the contrary: (i) the sum of $4,404,515 shall be transferred from the Credit Union Fund to the General Revenue Fund as of the effective date of this amendatory Act of the 95th General Assembly, or as soon thereafter as practical; (ii) the Governor may, during any fiscal year through January 10, 2011, from time to time direct the State Treasurer and Comptroller to transfer a specified sum not exceeding 10% of the revenues to be deposited into the Credit Union Fund during that fiscal year from that Fund to the General Revenue Fund in order to help defray the State's operating costs for the fiscal year; and (iii) the total sum transferred from the Credit Union Fund to the General Revenue Fund pursuant to item (ii) of this subsection (4) shall not exceed during any fiscal year 10% of the revenues to be deposited into the Credit Union Fund during that fiscal year.

The State Treasurer and Comptroller shall transfer the amounts designated under this Section as soon

as may be practicable after receiving the direction to transfer from the Governor.

(5) The administrative and operational expenses for any fiscal ~~calendar~~ year shall mean the ordinary and contingent expenses for that year incidental to making the examinations provided for by, and for administering, this Act, including all salaries and other compensation paid for personal services rendered for the State by officers or employees of the State to enforce this Act; all expenditures for telephone and telegraph charges, postage and postal charges, office supplies and services, furniture and equipment, office space and maintenance thereof, travel expenses and other necessary expenses; all to the extent that such expenditures are directly incidental to such examination or administration.

(6) When the balance in the Credit Union Fund at the end of a fiscal year exceeds 25% ~~aggregate of all fees collected by the Department under this Act and all earnings thereon for any calendar year exceeds 150%~~ of the total administrative and operational expenses incurred by the State in administering and enforcing the Illinois Credit Union Act and other laws, rules, and regulations as may apply to the administration and enforcement of the foregoing laws, rules, and regulations as amended from time to time ~~under this Act~~ for that fiscal year, such excess shall be credited to credit unions and applied against their regulatory fees for the subsequent fiscal year. The amount credited to each ~~a~~ credit union shall be in the same proportion as the regulatory fee paid by such credit union for the fiscal ~~calendar~~ year in which the excess is produced bears to the aggregate amount of all ~~the~~ fees collected by the Department under this Act for the same fiscal year.

(7) (Blank). ~~Examination fees for the year 2000 statutory examinations paid pursuant to the examination fee schedule in effect at that time shall be credited toward the regulatory fee to be assessed the credit union in calendar year 2001.~~

(8) Nothing in this Act shall prohibit the General Assembly from appropriating funds to the Department from the General Revenue Fund for the purpose of administering this Act.

(9) For purposes of this Section, "fiscal year" means a period beginning on July 1 of any calendar year and ending on June 30 of the next calendar year.

(Source: P.A. 93-32, eff. 7-1-03; 93-652, eff. 1-8-04; 94-91, eff. 7-1-05.)

Section 25. The Residential Mortgage License Act of 1987 is amended by changing Sections 1-4, 2-2, 2-6, and 4-11 as follows:

(205 ILCS 635/1-4) (from Ch. 17, par. 2321-4)

Sec. 1-4. Definitions.

(a) "Residential real property" or "residential real estate" shall mean real property located in this State improved by a one-to-four family dwelling used or occupied, wholly or partly, as the home or residence of one or more persons and may refer, subject to regulations of the Commissioner, to unimproved real property upon which those kinds dwellings are to be constructed.

(b) "Making a residential mortgage loan" or "funding a residential mortgage loan" shall mean for compensation or gain, either directly or indirectly, advancing funds or making a commitment to advance funds to a loan applicant for a residential mortgage loan.

(c) "Soliciting, processing, placing, or negotiating a residential mortgage loan" shall mean for compensation or gain, either directly or indirectly, accepting or offering to accept an application for a residential mortgage loan, assisting or offering to assist in the processing of an application for a residential mortgage loan on behalf of a borrower, or negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with a lender on behalf of a borrower including, but not limited to, the submission of credit packages for the approval of lenders, the preparation of residential mortgage loan closing documents, including a closing in the name of a broker.

(d) "Exempt person or entity" shall mean the following:

(1) (i) Any banking organization or foreign banking corporation licensed by the Illinois Commissioner of Banks and Real Estate or the United States Comptroller of the Currency to transact business in this State; (ii) any national bank, federally chartered savings and loan association, federal savings bank, federal credit union; (iii) any pension trust, bank trust, or bank trust company; (iv) any bank, savings and loan association, savings bank, or credit union organized under the laws of this or any other state; (v) any Illinois Consumer Installment Loan Act licensee; (vi) any insurance company authorized to transact business in this State; (vii) any entity engaged solely in commercial mortgage lending; (viii) any service corporation of a savings and loan association or savings bank organized under the laws of this State or the service corporation of a federally chartered savings and loan association or savings bank having its principal place of business in this State, other than a service corporation licensed or entitled to reciprocity under the Real Estate License Act of 2000; or (ix) any first tier subsidiary of a bank, the charter of which is issued under the Illinois Banking Act by the Illinois Commissioner of Banks and Real Estate, or the first tier subsidiary of a bank chartered by

the United States Comptroller of the Currency and that has its principal place of business in this State, provided that the first tier subsidiary is regularly examined by the Illinois Commissioner of Banks and Real Estate or the Comptroller of the Currency, or a consumer compliance examination is regularly conducted by the Federal Reserve Board.

(1.5) Any employee of a person or entity mentioned in item (1) of this subsection.

(2) Any person or entity that does not originate mortgage loans in the ordinary course of business making or acquiring residential mortgage loans with his or her or its own funds for his or her or its own investment without intent to make, acquire, or resell more than 10 residential mortgage loans in any one calendar year.

(3) Any person employed by a licensee to assist in the performance of the activities regulated by this Act who is compensated in any manner by only one licensee.

(4) Any person licensed pursuant to the Real Estate License Act of 2000, who engages only in the taking of applications and credit and appraisal information to forward to a licensee or an exempt entity under this Act and who is compensated by either a licensee or an exempt entity under this Act, but is not compensated by either the buyer (applicant) or the seller.

(5) Any individual, corporation, partnership, or other entity that originates, services, or brokers residential mortgage loans, as these activities are defined in this Act, and who or which receives no compensation for those activities, subject to the Commissioner's regulations with regard to the nature and amount of compensation.

(6) A person who prepares supporting documentation for a residential mortgage loan application taken by a licensee and performs ministerial functions pursuant to specific instructions of the licensee who neither requires nor permits the preparer to exercise his or her discretion or judgment; provided that this activity is engaged in pursuant to a binding, written agreement between the licensee and the preparer that:

(A) holds the licensee fully accountable for the preparer's action; and

(B) otherwise meets the requirements of this Section and this Act, does not undermine the purposes of this Act, and is approved by the Commissioner.

(e) "Licensee" or "residential mortgage licensee" shall mean a person, partnership, association, corporation, or any other entity who or which is licensed pursuant to this Act to engage in the activities regulated by this Act.

(f) "Mortgage loan" "residential mortgage loan" or "home mortgage loan" shall mean a loan to or for the benefit of any natural person made primarily for personal, family, or household use, primarily secured by either a mortgage on residential real property or certificates of stock or other evidence of ownership interests in and proprietary leases from, corporations, partnerships, or limited liability companies formed for the purpose of cooperative ownership of residential real property, all located in Illinois.

(g) "Lender" shall mean any person, partnership, association, corporation, or any other entity who either lends or invests money in residential mortgage loans.

(h) "Ultimate equitable owner" shall mean a person who, directly or indirectly, owns or controls an ownership interest in a corporation, foreign corporation, alien business organization, trust, or any other form of business organization regardless of whether the person owns or controls the ownership interest through one or more persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.

(i) "Residential mortgage financing transaction" shall mean the negotiation, acquisition, sale, or arrangement for or the offer to negotiate, acquire, sell, or arrange for, a residential mortgage loan or residential mortgage loan commitment.

(j) "Personal residence address" shall mean a street address and shall not include a post office box number.

(k) "Residential mortgage loan commitment" shall mean a contract for residential mortgage loan financing.

(l) "Party to a residential mortgage financing transaction" shall mean a borrower, lender, or loan broker in a residential mortgage financing transaction.

(m) "Payments" shall mean payment of all or any of the following: principal, interest and escrow reserves for taxes, insurance and other related reserves, and reimbursement for lender advances.

(n) "Commissioner" shall mean the Commissioner of Banks and Real Estate, except that beginning on the effective date of this amendatory Act of the 95th General Assembly, all references in this Act to the Commissioner of Banks of and Real Estate are deemed, in appropriate contexts, to be references to the Secretary of Financial and Professional Regulation ~~or a person authorized by the Commissioner, the~~

~~Office of Banks and Real Estate Act, or this Act to act in the Commissioner's stead~~.

(o) "Loan brokering", "brokering", or "brokerage service" shall mean the act of helping to obtain from another entity, for a borrower, a loan secured by residential real estate situated in Illinois or assisting a borrower in obtaining a loan secured by residential real estate situated in Illinois in return for consideration to be paid by either the borrower or the lender including, but not limited to, contracting for the delivery of residential mortgage loans to a third party lender and soliciting, processing, placing, or negotiating residential mortgage loans.

(p) "Loan broker" or "broker" shall mean a person, partnership, association, corporation, or limited liability company, other than those persons, partnerships, associations, corporations, or limited liability companies exempted from licensing pursuant to Section 1-4, subsection (d), of this Act, who performs the activities described in subsections (c) and (o) of this Section.

(q) "Servicing" shall mean the collection or remittance for or the right or obligation to collect or remit for any lender, noteowner, noteholder, or for a licensee's own account, of payments, interests, principal, and trust items such as hazard insurance and taxes on a residential mortgage loan in accordance with the terms of the residential mortgage loan; and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing.

(r) "Full service office" shall mean office and staff in Illinois reasonably adequate to handle efficiently communications, questions, and other matters relating to any application for, or an existing home mortgage secured by residential real estate situated in Illinois with respect to which the licensee is brokering, funding originating, purchasing, or servicing. The management and operation of each full service office must include observance of good business practices such as adequate, organized, and accurate books and records; ample phone lines, hours of business, staff training and supervision, and provision for a mechanism to resolve consumer inquiries, complaints, and problems. The Commissioner shall issue regulations with regard to these requirements and shall include an evaluation of compliance with this Section in his or her periodic examination of each licensee.

(s) "Purchasing" shall mean the purchase of conventional or government-insured mortgage loans secured by residential real estate situated in Illinois from either the lender or from the secondary market.

(t) "Borrower" shall mean the person or persons who seek the services of a loan broker, originator, or lender.

(u) "Originating" shall mean the issuing of commitments for and funding of residential mortgage loans.

(v) "Loan brokerage agreement" shall mean a written agreement in which a broker or loan broker agrees to do either of the following:

(1) obtain a residential mortgage loan for the borrower or assist the borrower in obtaining a residential mortgage loan; or

(2) consider making a residential mortgage loan to the borrower.

(w) "Advertisement" shall mean the attempt by publication, dissemination, or circulation to induce, directly or indirectly, any person to enter into a residential mortgage loan agreement or residential mortgage loan brokerage agreement relative to a mortgage secured by residential real estate situated in Illinois.

(x) "Residential Mortgage Board" shall mean the Residential Mortgage Board created in Section 1-5 of this Act.

(y) "Government-insured mortgage loan" shall mean any mortgage loan made on the security of residential real estate insured by the Department of Housing and Urban Development or Farmers Home Loan Administration, or guaranteed by the Veterans Administration.

(z) "Annual audit" shall mean a certified audit of the licensee's books and records and systems of internal control performed by a certified public accountant in accordance with generally accepted accounting principles and generally accepted auditing standards.

(aa) "Financial institution" shall mean a savings and loan association, savings bank, credit union, or a bank organized under the laws of Illinois or a savings and loan association, savings bank, credit union or a bank organized under the laws of the United States and headquartered in Illinois.

(bb) "Escrow agent" shall mean a third party, individual or entity charged with the fiduciary obligation for holding escrow funds on a residential mortgage loan pending final payout of those funds in accordance with the terms of the residential mortgage loan.

(cc) "Net worth" shall have the meaning ascribed thereto in Section 3-5 of this Act.

(dd) "Affiliate" shall mean:

(1) any entity that directly controls or is controlled by the licensee and any other company that is directly affecting activities regulated by this Act that is controlled by the company

that controls the licensee;

(2) any entity:

(A) that is controlled, directly or indirectly, by a trust or otherwise, by or for the benefit of shareholders who beneficially or otherwise control, directly or indirectly, by trust or otherwise, the licensee or any company that controls the licensee; or

(B) a majority of the directors or trustees of which constitute a majority of the persons holding any such office with the licensee or any company that controls the licensee;

(3) any company, including a real estate investment trust, that is sponsored and advised on a contractual basis by the licensee or any subsidiary or affiliate of the licensee.

The Commissioner may define by rule and regulation any terms used in this Act for the efficient and clear administration of this Act.

(ee) "First tier subsidiary" shall be defined by regulation incorporating the comparable definitions used by the Office of the Comptroller of the Currency and the Illinois Commissioner of Banks and Real Estate.

(ff) "Gross delinquency rate" means the quotient determined by dividing (1) the sum of (i) the number of government-insured residential mortgage loans funded or purchased by a licensee in the preceding calendar year that are delinquent and (ii) the number of conventional residential mortgage loans funded or purchased by the licensee in the preceding calendar year that are delinquent by (2) the sum of (i) the number of government-insured residential mortgage loans funded or purchased by the licensee in the preceding calendar year and (ii) the number of conventional residential mortgage loans funded or purchased by the licensee in the preceding calendar year.

(gg) "Delinquency rate factor" means the factor set by rule of the Commissioner that is multiplied by the average gross delinquency rate of licensees, determined annually for the immediately preceding calendar year, for the purpose of determining which licensees shall be examined by the Commissioner pursuant to subsection (b) of Section 4-8 of this Act.

(hh) "Loan originator" means any natural person who, for compensation or in the expectation of compensation, either directly or indirectly makes, offers to make, solicits, places, or negotiates a residential mortgage loan.

(ii) "Confidential supervisory information" means any report of examination, visitation, or investigation prepared by the Commissioner under this Act, any report of examination visitation, or investigation prepared by the state regulatory authority of another state that examines a licensee, any document or record prepared or obtained in connection with or relating to any examination, visitation, or investigation, and any record prepared or obtained by the Commissioner to the extent that the record summarizes or contains information derived from any report, document, or record described in this subsection. "Confidential supervisory information" does not include any information or record routinely prepared by a licensee and maintained in the ordinary course of business or any information or record that is required to be made publicly available pursuant to State or federal law or rule.

(jj) "Secretary" means the Secretary of the Department of Financial and Professional Regulation, or a person authorized by the Secretary or by this Act to act in the Secretary's stead.

(Source: P.A. 93-561, eff. 1-1-04; 93-1018, eff. 1-1-05.)

(205 ILCS 635/2-2) (from Ch. 17, par. 2322-2)

Sec. 2-2. Application process; investigation; fee.

(a) The Secretary ~~Commissioner~~ shall issue a license upon completion of all of the following:

(1) The filing of an application for license.

(2) The filing with the Secretary ~~Commissioner~~ of a listing of judgments entered against, and bankruptcy petitions by, the license applicant for the preceding 10 years.

(3) The payment, in certified funds, of investigation and application fees, the total of which shall be in an amount equal to $2,043 ~~$2,700~~ annually~~, however, the Commissioner may increase the investigation and application fees by rule as provided in Section 4-11~~.

(4) Except for a broker applying to renew a license, the filing of an audited balance sheet including all footnotes prepared by a certified public accountant in accordance with generally accepted accounting principles and generally accepted auditing principles which evidences that the applicant meets the net worth requirements of Section 3-5.

(5) The filing of proof satisfactory to the Commissioner that the applicant, the members thereof if the applicant is a partnership or association, the members or managers thereof that retain any authority or responsibility under the operating agreement if the applicant is a limited liability company, or the officers thereof if the applicant is a corporation have 3 years experience preceding application in real estate finance. Instead of this requirement, the applicant and the

applicant's officers or members, as applicable, may satisfactorily complete a program of education in real estate finance and fair lending, as approved by the Commissioner, prior to receiving the initial license. The Commissioner shall promulgate rules regarding proof of experience requirements and educational requirements and the satisfactory completion of those requirements. The Commissioner may establish by rule a list of duly licensed professionals and others who may be exempt from this requirement.

(6) An investigation of the averments required by Section 2-4, which investigation must allow the Commissioner to issue positive findings stating that the financial responsibility, experience, character, and general fitness of the license applicant and of the members thereof if the license applicant is a partnership or association, of the officers and directors thereof if the license applicant is a corporation, and of the managers and members that retain any authority or responsibility under the operating agreement if the license applicant is a limited liability company are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly and efficiently within the purpose of this Act. If the Commissioner shall not so find, he or she shall not issue such license, and he or she shall notify the license applicant of the denial.

The Commissioner may impose conditions on a license if the Commissioner determines that the conditions are necessary or appropriate. These conditions shall be imposed in writing and shall continue in effect for the period prescribed by the Commissioner.

(b) All licenses shall be issued in duplicate with one copy being transmitted to the license applicant and the second being retained with the Commissioner.

Upon receipt of such license, a residential mortgage licensee shall be authorized to engage in the business regulated by this Act. Such license shall remain in full force and effect until it expires without renewal, is surrendered by the licensee or revoked or suspended as hereinafter provided.

(Source: P.A. 93-32, eff. 7-1-03; 93-1018, eff. 1-1-05.)

(205 ILCS 635/2-6) (from Ch. 17, par. 2322-6)

Sec. 2-6. License issuance and renewal; fee.

(a) Beginning July 1, 2003, licenses shall be renewed every year on the anniversary of the date of issuance of the original license. Properly completed renewal application forms and filing fees must be received by the Secretary ~~Commissioner~~ 60 days prior to the renewal date.

(b) It shall be the responsibility of each licensee to accomplish renewal of its license; failure of the licensee to receive renewal forms absent a request sent by certified mail for such forms will not waive said responsibility. Failure by a licensee to submit a properly completed renewal application form and fees in a timely fashion, absent a written extension from the Secretary ~~Commissioner~~, will result in the assessment of additional fees, as follows:

(1) A fee of $567.50 ~~$750~~ will be assessed to the licensee 30 days after the proper renewal date and $1,135 ~~$1,500~~ each month thereafter, until the license is either renewed or expires pursuant to Section 2-6, subsections (c) and (d), of this Act.

(2) Such fee will be assessed without prior notice to the licensee, but will be assessed only in cases wherein the Secretary ~~Commissioner~~ has in his or her possession documentation of the licensee's continuing activity for which the unrenewed license was issued.

(c) A license which is not renewed by the date required in this Section shall automatically become inactive. No activity regulated by this Act shall be conducted by the licensee when a license becomes inactive. The Commissioner may require the licensee to provide a plan for the disposition of any residential mortgage loans not closed or funded when the license becomes inactive. The Commissioner may allow a licensee with an inactive license to conduct activities regulated by this Act for the sole purpose of assisting borrowers in the closing or funding of loans for which the loan application was taken from a borrower while the license was active. An inactive license may be reactivated by the Commissioner upon payment of the renewal fee, and payment of a reactivation fee equal to the renewal fee.

(d) A license which is not renewed within one year of becoming inactive shall expire.

(e) A licensee ceasing an activity or activities regulated by this Act and desiring to no longer be licensed shall so inform the Commissioner in writing and, at the same time, convey the license and all other symbols or indicia of licensure. The licensee shall include a plan for the withdrawal from regulated business, including a timetable for the disposition of the business. Upon receipt of such written notice, the Commissioner shall issue a certified statement canceling the license.

(Source: P.A. 93-32, eff. 7-1-03; 93-561, eff. 1-1-04; 93-1018, eff. 1-1-05.)

(205 ILCS 635/4-11) (from Ch. 17, par. 2324-11)

Sec. 4-11. Costs of Supervision; Examination and Investigative Fees. The expenses of administering this Act, including investigations and examinations provided for in this Act shall be borne by and

assessed against entities regulated by this Act. Subject to the limitations set forth in Section 2-2 of this Act, the Secretary ~~The Commissioner~~ shall establish fees by regulation in at least the following categories:

(1) application fees;

(2) investigation of license applicant fees;

(3) examination fees;

(4) contingent fees;

and such other categories as may be required to administer this Act.

(Source: P.A. 85-735.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Link, **Senate Bill No. 2513**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Watson
Dahl	Jacobs	Pankau	Wilhelmi
DeLeo	Jones, J.	Peterson	Mr. President
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

At the hour of 8:42 o'clock p.m., Senator Link presiding.

SENATE BILL RECALLED

On motion of Senator Martinez, **Senate Bill No. 2531** was recalled from the order of third reading to the order of second reading.

Senator Martinez offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2531

AMENDMENT NO. 1. Amend Senate Bill 2531 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Public Aid Code is amended by changing Section 5-5.21 as follows:

(305 ILCS 5/5-5.21)

Sec. 5-5.21. Reimbursement methodology. The Department shall form a workgroup comprised of representatives of the Department, the Illinois Department of Public Health, and members of the long-term care provider community to implement a reimbursement methodology based upon the federally mandated resident assessment instrument. No later than January 1, 1997, the Illinois Department in conjunction with the work group will recommend to the Governor a methodology for determining payment rates for services in nursing facilities based upon the federally mandated resident assessment instrument. No later than June 30, 1997, the Illinois Department shall implement a methodology for determining payment rates for services in nursing facilities based upon federal requirements. On January 15, 2009 and every January 15 thereafter, the Illinois Department shall notify the Governor and the General Assembly of the status of the full implementation of the Minimum Data Set (MDS) reimbursement methodology and the cost report year on which the current support component of the reimbursement rate is based.

(Source: P.A. 89-415, eff. 1-1-96.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Martinez, **Senate Bill No. 2531**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Crotty	Hultgren	Murphy	Trotter
Cullerton	Hunter	Noland	Watson
Dahl	Jacobs	Pankau	Wilhelmi
DeLeo	Jones, J.	Peterson	Mr. President
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator J. Jones, **Senate Bill No. 2562** was recalled from the order of third reading to the order of second reading.

Senate Floor Amendment No. 1 was postponed in the Committee on Agriculture and Conservation.

Senator J. Jones offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2562

AMENDMENT NO. 2. Amend Senate Bill 2562 by replacing everything after the enacting clause with the following:

"Section 5. The Wildlife Code is amended by adding Section 2.33c as follows:

(520 ILCS 5/2.33c new)

Sec. 2.33c. Prohibited permits and licenses.

(a) No permit or license shall be valid for the taking with a firearm of wildlife protected under this Code by any of the following persons:

(1) Any person who has been convicted of a felony under the laws of this or any other jurisdiction.

(2) Any person subject to an existing order of protection prohibiting him or her from possessing a firearm.

(3) Any person convicted within the previous 5 years of battery, assault, aggravated assault, violation of an order of protection, or a substantially similar offense in another jurisdiction, in which a firearm was used or possessed.

(4) Any person convicted of domestic battery or a substantially similar offense in another jurisdiction committed on or after the effective date of this amendatory Act of the 95th General Assembly.

(5) Any person convicted within the previous 5 years of domestic battery or a substantially similar offense in another jurisdiction committed before the effective date of this amendatory Act of the 95th General Assembly.

(6) Any person not an adult who had been adjudicated a delinquent minor under the Juvenile Court Act of 1987 for the commission of an offense that if committed by an adult would be a felony.

The Department shall require all applicants for firearm deer permits or firearm turkey permits to swear, under penalty of perjury, that they do not fit any of the categories of person listed in items (1) through (6).

(b) Penalty: An applicant who falsely signs an application for a firearm deer permit or firearm turkey permit swearing that he or she does not fit within any of the categories in items (1) through (6) of subsection (a) is guilty of perjury and, upon a finding of guilty, shall, in addition to any other penalties set by law, have all privileges under the Wildlife Code suspended for 5 years.

A person who did not fit within one of the categories listed in items (1) through (6) of subsection (a) at the time of application for a permit, but does fit within one of the those categories at the time found hunting with a firearm, is guilty of hunting without a valid permit and, in addition to any other penalties set by law, shall have all privileges under the Wildlife Code suspended for 5 years.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator J. Jones, **Senate Bill No. 2562**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 56; Nays None.

The following voted in the affirmative:

Althoff	Forby	Lightford	Risinger
Bivins	Frerichs	Link	Rutherford
Bomke	Garrett	Luechtefeld	Schoenberg
Bond	Haine	Maloney	Silverstein
Brady	Halvorson	Martinez	Steans
Burzynski	Harmon	Meeks	Sullivan
Clayborne	Hendon	Millner	Syverson
Cronin	Holmes	Munoz	Trotter
Crotty	Hultgren	Murphy	Watson
Cullerton	Hunter	Noland	Wilhelmi
Dahl	Jacobs	Pankau	Mr. President
DeLeo	Jones, J.	Peterson	
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	
Dillard	Lauzen	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Harmon, **Senate Bill No. 2636** was recalled from the order of third reading to the order of second reading.

Senator Harmon offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2636

AMENDMENT NO. 1. Amend Senate Bill 2636 by replacing everything after the enacting clause with the following:

"Section 5. The Uniform Disposition of Unclaimed Property Act is amended by changing Section 20 as follows:

(765 ILCS 1025/20) (from Ch. 141, par. 120)

Sec. 20. Determination of claims.

(a) The State Treasurer shall consider any claim filed under this Act and may, in his discretion, hold a hearing and receive evidence concerning it. Such hearing shall be conducted by the State Treasurer or by a hearing officer designated by him. No hearings shall be held if the payment of the claim is ordered by a court, if the claimant is under court jurisdiction, or if the claim is paid under Article XXV of the Probate Act of 1975. The State Treasurer or hearing officer shall prepare a finding and a decision in writing on each hearing, stating the substance of any evidence heard by him, his findings of fact in respect thereto, and the reasons for his decision. The State Treasurer shall review the findings and decision of each hearing conducted by a hearing officer and issue a final written decision. The final decision shall be a public record. Any claim of an interest in property that is filed pursuant to this Act shall be considered and a finding and decision shall be issued by the Office of the State Treasurer in a timely and expeditious manner.

(b) If the claim is allowed, and after deducting an amount not to exceed $20 to cover the cost of notice publication and related clerical expenses, the State Treasurer shall make payment forthwith.

(c) In order to carry out the purpose of this Act, no person or company shall be entitled to a fee for discovering presumptively abandoned property until it has been in the custody of the Unclaimed Property Division of the Office of the State Treasurer for at least 24 months. Fees for discovering property that has been in the custody of that division for more than 24 months shall be limited to not more than 10% of the amount collected.

(d) A person or company attempting to collect a contingent fee for discovering, on behalf of an owner, presumptively abandoned property must be licensed as a private detective pursuant to the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004.

(e) This Section shall not apply to the fees of an attorney at law duly appointed to practice in a state of the United States who is employed by a claimant with regard to probate matters on a contractual basis.

(f) Any person or company offering to identify, discover, or collect presumptively abandoned property or property which may become presumptively abandoned on behalf of the putative owner of such property in exchange for a fee, must provide the owner with a written disclosure. The disclosure shall be set forth in a clear and conspicuous manner and at a minimum shall state the following:

Each state maintains an office of unclaimed property. Generally, if for a number of years an owner of property has not communicated directly with the holder of the property, and has not otherwise indicated an interest in or claimed the property, the property will be delivered to a state administered unclaimed property program. Upon such delivery, the owner will be able to recover the property from the state administered program without charge by the state. The unclaimed asset referred to in this Agreement has not yet been reported or remitted to any state unclaimed property office. Since you reside (or resided) in Illinois, you may obtain information about the Illinois unclaimed property program by logging onto its website at www.treasurer.il.gov.

A person or company may not charge a fee greater than 25% of the property's value for the recovery of that property where the property is not yet reportable under this Act and the designated owner of that property, as reflected within the books and records of the holder, is living.

A person or company may not charge a fee greater than 33% of the property's value for the recovery of that property where the property is not yet reportable under this Act and the recovery of that property involves documentation of the owner's death or any elements of estate or trust administration.

(Source: P.A. 95-613, eff. 9-11-07.)

Section 10. The Consumer Fraud and Deceptive Business Practices Act is amended by adding Section 2BBB as follows:

(815 ILCS 505/2BBB new)

Sec. 2BBB. Abandoned property recovery fee. Any person or company offering to identify, discover, or collect property held by a public agency, as that term is defined by the Public Funds Investment Act, on behalf of a consumer in exchange for a fee must provide the owner of the property with a written disclosure. This disclosure shall include, at a minimum, a statement indicating the public agency does not charge fees for the recovery of any property. A person or company may not charge a fee greater than 25% for the recovery of property held by a public agency. Any person who violates this Section commits an unlawful practice within the meaning of this Act. This Section is not applicable to any category of property that is, or will become, reportable pursuant to the Uniform Disposition of Unclaimed Property Act.".

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Harmon offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2636

AMENDMENT NO. 2. Amend Senate Bill 2636, AS AMENDED, after the enacting clause, by inserting the following:

"Section 3. The Property Tax Code is amended by changing Section 20-175 as follows:

(35 ILCS 200/20-175)

Sec. 20-175. Refund for erroneous assessments or overpayments. If any property is twice assessed for the same year, or assessed before it becomes taxable, and the erroneously assessed taxes have been paid either at sale or otherwise, or have been overpaid by the same claimant or by different claimants, the County Collector, upon being satisfied of the facts in the case, shall refund the taxes to the proper claimant. When the County Collector is unable to determine the proper claimant, the circuit court, on petition of the person paying the taxes, or his or her agent, and being satisfied of the facts in the case, shall direct the county collector to refund the taxes and deduct the amount thereof, pro rata, from the moneys due to taxing bodies which received the taxes erroneously paid, or their legal successors. Pleadings in connection with the petition provided for in this Section shall conform to that prescribed in the Civil Practice Law. Appeals may be taken from the judgment of the circuit court, either by the county collector or by the petitioner, as in other civil cases. Any erroneous assessment payments or overpayments not refunded within 7 years shall be delivered to the Office of the Illinois State Treasurer pursuant to the Illinois Uniform Disposition of Unclaimed Property Act. ~~A claim for refund shall not be allowed unless a petition is filed within 5 years from the date the right to a refund arose.~~ If a certificate

of error results in the allowance of a homestead exemption not previously allowed, the county collector shall pay the taxpayer interest on the amount of taxes paid that are attributable to the amount of the additional allowance, at the rate of 6% per year. To cover the cost of interest, the county collector shall proportionately reduce the distribution of taxes collected for each taxing district in which the property is situated.
(Source: P.A. 83-121; 85-468; 88-455.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Harmon, **Senate Bill No. 2636**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 56; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lightford	Risinger
Bivins	Forby	Link	Rutherford
Bomke	Frerichs	Luechtefeld	Schoenberg
Bond	Haine	Maloney	Silverstein
Brady	Halvorson	Martinez	Steans
Burzynski	Harmon	Meeks	Sullivan
Clayborne	Hendon	Millner	Syverson
Collins	Holmes	Munoz	Trotter
Cronin	Hultgren	Murphy	Watson
Crotty	Hunter	Noland	Wilhelmi
Cullerton	Jacobs	Pankau	Mr. President
Dahl	Jones, J.	Peterson	
DeLeo	Koehler	Radogno	
Delgado	Kotowski	Raoul	
Demuzio	Lauzen	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Harmon, **Senate Bill No. 2638** was recalled from the order of third reading to the order of second reading.

Senator Harmon offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2638

AMENDMENT NO. __1__. Amend Senate Bill 2638 by replacing everything after the enacting clause with the following:

"Section 5. The Local Government Energy Conservation Act is amended by changing Section 25 as follows:
(50 ILCS 515/25)

Sec. 25. Installment payment contract; lease purchase agreement; or other agreement. A unit of local government, or units of local government in combination, may enter into an installment payment contract, lease purchase agreement, or other agreement with a qualified provider or with a third party, as authorized by law, for the funding or financing of the purchase and installation of energy conservation measures by a qualified provider. Every unit of local government may issue certificates evidencing the indebtedness incurred pursuant to the contracts or agreements. Any such contract or agreement shall be valid whether or not an appropriation with respect thereto is first included in any annual or supplemental budget adopted by the unit of local government. Each contract or agreement entered into by a unit of local government pursuant to this Section shall be authorized by official action of the unit of local government's governing body. The authority granted under this Section is in addition to any other authority granted by law.

Any consultant, architect, engineer, designer, or other drafter of specifications who assists the unit of local government in the preparation of specifications shall not submit a bid or proposal to meet the procurement need unless the body authorizing the contract or agreement determines in writing that there will be no substantial conflict of interest involved. This written notice shall be published in each volume of the Illinois Procurement Bulletin with the Request for Proposal.

(Source: P.A. 95-612, eff. 9-11-07.)

Section 10. The School Code is amended by changing Sections 19b-1.4, 19b-3, and 19b-5 as follows:

(105 ILCS 5/19b-1.4) (from Ch. 122, par. 19b-1.4)

Sec. 19b-1.4. Request for proposals. "Request for proposals" means a competitive selection achieved by negotiated procurement. The request for proposals shall be submitted to the administrators of all 4 volumes of ~~announced in~~ the Illinois Procurement Bulletin for publication in each bulletin and through at least one public notice, at least 14 days before the request date in a newspaper published in the district or vocational center area, or if no newspaper is published in the district or vocational center area, in a newspaper of general circulation in the area of the district or vocational center, from a school district or area vocational center that will administer the program, requesting innovative solutions and proposals for energy conservation measures. Proposals submitted shall be sealed. The request for proposals shall include all of the following:

(1) The name and address of the school district or area vocation center.

(2) The name, address, title, and phone number of a contact person.

(3) Notice indicating that the school district or area vocational center is requesting qualified providers to propose energy conservation measures through a guaranteed energy savings contract.

(4) The date, time, and place where proposals must be received.

(5) The evaluation criteria for assessing the proposals.

(6) Any other stipulations and clarifications the school district or area vocational center may require.

(Source: P.A. 95-612, eff. 9-11-07.)

(105 ILCS 5/19b-3) (from Ch. 122, par. 19b-3)

Sec. 19b-3. Award of guaranteed energy savings contract. Sealed proposals must be opened by a member or employee of the school board or governing board of the area vocational center, whichever is applicable, at a public opening at which the contents of the proposals must be announced. Each person or entity submitting a sealed proposal must receive at least 13 days notice of the time and place of the opening. The school district or area vocational center shall select the qualified provider that best meets the needs of the district or area vocational center. The school district or area vocational center shall provide public notice of the meeting at which it proposes to award a guaranteed energy savings contract of the names of the parties to the proposed contract and of the purpose of the contract. The public notice shall be made at least 10 days prior to the meeting. After evaluating the proposals under Section 19b-2, a school district or area vocational center may enter into a guaranteed energy savings contract with a qualified provider if it finds that the amount it would spend on the energy conservation measures recommended in the proposal would not exceed the amount to be saved in either energy or operational costs, or both, within a 20-year period from the date of installation, if the recommendations in the proposal are followed. Contracts let or awarded must be submitted to the administrators of all 4 volumes of the ~~published in the next available subsequent~~ Illinois Procurement Bulletin for publication in each bulletin.

(Source: P.A. 95-612, eff. 9-11-07.)

(105 ILCS 5/19b-5) (from Ch. 122, par. 19b-5)

Sec. 19b-5. Installment payment contract; lease purchase agreement; or other agreement. A school

district or school districts in combination or an area vocational center may enter into an installment payment contract, ~~or~~ lease purchase agreement , or other agreement with a qualified provider or with a third-party ~~lender~~, as authorized by law, for the funding or financing of the purchase and installation of energy conservation measures by a qualified provider. Every school district or area vocational center may issue certificates evidencing the indebtedness incurred pursuant to the contracts or agreements. Any such contract or agreement shall be valid whether or not an appropriation with respect thereto is first included in any annual or supplemental budget adopted by the school district or area vocational center. Each contract or agreement entered into by a school district or area vocational center pursuant to this Section shall be authorized by official action ~~resolution~~ of the school board or governing board of the area vocational center, whichever is applicable. The authority granted in this Section is in addition to any other authority granted by law.
(Source: P.A. 95-612, eff. 9-11-07.)

Section 15. The Public University Energy Conservation Act is amended by changing Section 25 as follows:

(110 ILCS 62/25)

Sec. 25. Installment payment contract; lease purchase agreement; or other agreement. A public university or 2 or more public universities in combination may enter into an installment payment contract, ~~or~~ lease purchase agreement , or other agreement with a qualified provider or with a third-party ~~lender~~, as authorized by law, for the funding or financing of the purchase and installation of energy conservation measures by a qualified provider. Each public university may issue certificates evidencing the indebtedness incurred pursuant to the contracts or agreements. Any such contract or agreement shall be valid whether or not an appropriation with respect thereto is first included in any annual or additional or supplemental budget proposal, request, or recommendation submitted by or made with respect to a public university under Section 8 of the Board of Higher Education Act or as otherwise provided by law. Each contract or agreement entered into by a public university pursuant to this Section shall be authorized by official action ~~resolution~~ of the board of trustees of that university. The authority granted in this Section is in addition to any other authority granted by law.
(Source: P.A. 95-612, eff. 9-11-07.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Harmon, **Senate Bill No. 2638**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 56; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lightford	Risinger
Bivins	Forby	Link	Rutherford
Bomke	Frerichs	Luechtefeld	Schoenberg
Bond	Haine	Maloney	Silverstein
Brady	Halvorson	Martinez	Steans
Burzynski	Harmon	Meeks	Sullivan
Clayborne	Hendon	Millner	Syverson
Collins	Holmes	Munoz	Trotter
Cronin	Hultgren	Murphy	Watson
Crotty	Hunter	Noland	Wilhelmi

Cullerton	Jacobs	Pankau	Mr. President
Dahl	Jones, J.	Peterson	
DeLeo	Koehler	Radogno	
Delgado	Kotowski	Raoul	
Demuzio	Lauzen	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Harmon, **Senate Bill No. 2640** was recalled from the order of third reading to the order of second reading.

Senator Harmon offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2640

AMENDMENT NO. 2. Amend Senate Bill 2640, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Environmental Protection Act is amended by changing Section 40.2 as follows:

(415 ILCS 5/40.2) (from Ch. 111 1/2, par. 1040.2)

Sec. 40.2. Application of review process.

(a) Subsection (a) of Section 40 does not apply to any permit which is subject to Section 39.5. If the Agency refuses to grant or grants with conditions a CAAPP permit, makes a determination of incompleteness regarding a submitted CAAPP application, or fails to act on an application for a CAAPP permit, permit renewal, or permit revision within the time specified in paragraph 5(j) of Section 39.5 of this Act, the applicant, any person who participated in the public comment process pursuant to subsection 8 of Section 39.5 of this Act, or any other person who could obtain judicial review pursuant to Section 41(a) of this Act, may, within 35 days after final permit action, petition for a hearing before the Board to contest the decision of the Agency. However, the 35-day period for petitioning for a hearing may be extended by the applicant for an additional period of time not to exceed 90 days by written notice provided to the Board from the applicant and the Agency within the initial appeal period. If another person with standing to appeal wishes to obtain an extension, there must be a written notice provided to the Board by that person, the Agency, and the applicant, within the initial appeal period. Notwithstanding the preceding requirements, petitions for a hearing before the Board under this subsection may be filed after the 35-day period, only if such petitions are based solely on grounds arising after the 35-day period expires. Such petitions shall be filed within 35 days after the new grounds for review arise. If the final permit action being challenged is the Agency's failure to take final action, a petition for a hearing before the Board shall be filed before the Agency denies or issues the final permit.

The Agency shall appear as respondent in such hearing. At such hearing the rules prescribed in Sections 32 and 33(a) of this Act shall apply, and the burden of proof shall be on the petitioner.

(b) The Agency's failure to take final action within 90 days of receipt of an application requesting minor permit modification procedures (or 180 days for modifications subject to group processing requirements), pursuant to subsection 14 of Section 39.5, will be subject to this Section and Section 41 of this Act.

(c) If there is no final action by the Board within 120 days after the date on which it received the petition, the permit shall not be deemed issued; rather, the petitioner shall be entitled to an Appellate Court order pursuant to Section 41(d) of this Act. The period of 120 days shall not run for any period of time, not to exceed 30 days, during which the Board is without sufficient membership to constitute the quorum required by subsection (a) of Section 5 of this Act; the 120 day period shall not be stayed for lack of quorum beyond 30 days, regardless of whether the lack of quorum exists at the beginning of the 120 day period or occurs during the running of the 120 day period.

(d) Any person who files a petition to contest the final permit action by the Agency under this Section shall pay a filing fee.

(e) The Agency shall notify USEPA, in writing, of any petition for hearing brought under this Section involving a provision or denial of a Phase II acid rain permit within 30 days of the filing of the petition.

USEPA may intervene as a matter of right in any such hearing. The Agency shall notify USEPA, in writing, of any determination or order in a hearing brought under this Section that interprets, voids, or otherwise relates to any portion of a Phase II acid rain permit.

(f) The Board may stay the effectiveness of any final Agency action identified in subsection (a) of this Section during the pendency of the review process. The Board may stay the effectiveness of any or all of the contested conditions of a CAAPP permit if requested. If the Board stays any contested conditions, then any related conditions from any prior existing permit continue in full force and effect until the final Board decision on the appeal of the granted CAAPP permit has been made. The Board may grant a request to stay all the conditions in a CAAPP permit upon a demonstration that the issues raised on appeal can be reasonably expected to affect the CAAPP permit in its entirety. If the entire CAAPP permit is stayed by the Board, then any prior existing permit continues in full force and effect until the final Board decision on the appeal of the granted CAAPP permit has been made.

(Source: P.A. 91-357, eff. 7-29-99; 92-574, eff. 6-26-02.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Senate Floor Amendment No. 3 was held in the Committee on Environment and Energy.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Harmon, **Senate Bill No. 2640**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 56; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lightford	Risinger
Bivins	Forby	Link	Rutherford
Bomke	Frerichs	Luechtefeld	Schoenberg
Bond	Haine	Maloney	Silverstein
Brady	Halvorson	Martinez	Steans
Burzynski	Harmon	Meeks	Sullivan
Clayborne	Hendon	Millner	Syverson
Collins	Holmes	Munoz	Trotter
Cronin	Hultgren	Murphy	Watson
Crotty	Hunter	Noland	Wilhelmi
Cullerton	Jacobs	Pankau	Mr. President
Dahl	Jones, J.	Peterson	
DeLeo	Koehler	Radogno	
Delgado	Kotowski	Raoul	
Demuzio	Lauzen	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Harmon, **Senate Bill No. 2643** was recalled from the order of third reading to the order of second reading.

Senator Harmon offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2643

AMENDMENT NO. 1. Amend Senate Bill 2643 on page 2, by replacing lines 11 through 14 with the following:

"indirectly, or constructively, by a single corporation ~~person~~.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Harmon, **Senate Bill No. 2643**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 56; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lightford	Risinger
Bivins	Forby	Link	Rutherford
Bomke	Frerichs	Luechtefeld	Schoenberg
Bond	Haine	Maloney	Silverstein
Brady	Halvorson	Martinez	Steans
Burzynski	Harmon	Meeks	Sullivan
Clayborne	Hendon	Millner	Syverson
Collins	Holmes	Munoz	Trotter
Cronin	Hultgren	Murphy	Watson
Crotty	Hunter	Noland	Wilhelmi
Cullerton	Jacobs	Pankau	Mr. President
Dahl	Jones, J.	Peterson	
DeLeo	Koehler	Radogno	
Delgado	Kotowski	Raoul	
Demuzio	Lauzen	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Dillard, **Senate Bill No. 2657** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2657

AMENDMENT NO. 1. Amend Senate Bill 2657 by replacing everything after the enacting clause with the following:

"Section 5. The Capital Punishment Reform Study Committee Act is amended by changing Section 2

as follows:

(20 ILCS 3929/2)

Sec. 2. Capital Punishment Reform Study Committee.

(a) There is created the Capital Punishment Reform Study Committee, hereinafter referred to as the Committee, consisting of 15 members appointed as follows:

(1) Three members appointed by the President of the Senate;

(2) Two members appointed by the Minority Leader of the Senate;

(3) Three members appointed by the Speaker of the House of Representatives;

(4) Two members appointed by the Minority Leader of the House of Representatives;

(5) One member appointed by the Attorney General;

(6) One member appointed by the Governor;

(7) One member appointed by the Cook County State's Attorney;

(8) One member appointed by the Office of the Cook County Public Defender;

(9) One member appointed by the Office of the State Appellate Defender; and

(10) One member appointed by the office of the State's Attorneys Appellate Prosecutor.

(b) The Committee shall study the impact of the various reforms to the capital punishment system enacted by the 93rd General Assembly and annually report to the General Assembly on the effects of these reforms. Each report shall include:

(1) The impact of the reforms on the issue of uniformity and proportionality in the application of the death penalty including, but not limited to, the tracking of data related to whether the reforms have eliminated the statistically significant differences in sentencing related to the geographic location of the homicide and the race of the victim found by the Governor's Commission on Capital Punishment in its report issued on April 15, 2002.

(2) The implementation of training for police, prosecutors, defense attorneys, and judges as recommended by the Governor's Commission on Capital Punishment.

(3) The impact of the various reforms on the quality of evidence used during capital prosecutions.

(4) The quality of representation provided by defense counsel to defendants in capital prosecutions.

(5) The impact of the various reforms on the costs associated with the administration of the Illinois capital punishment system.

(c) The Committee shall hold hearings on a periodic basis to receive testimony from the public regarding the manner in which reforms have impacted the capital punishment system.

(d) The Committee shall submit its final report to the General Assembly no later than December 31, 2009 ~~5 years after the effective date of this Act~~.

(Source: P.A. 93-605, eff. 11-19-03.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Dillard, **Senate Bill No. 2657**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford

Bond	Garrett	Luechtefeld	Schoenberg
Brady	Haine	Maloney	Silverstein
Burzynski	Halvorson	Martinez	Steans
Clayborne	Harmon	Meeks	Sullivan
Collins	Hendon	Millner	Syverson
Cronin	Holmes	Munoz	Trotter
Crotty	Hultgren	Murphy	Watson
Cullerton	Hunter	Noland	Wilhelmi
Dahl	Jacobs	Pankau	Mr. President
DeLeo	Jones, J.	Peterson	
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Holmes, **Senate Bill No. 2678** was recalled from the order of third reading to the order of second reading.

Senator Holmes offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2678

AMENDMENT NO. 1. Amend Senate Bill 2678 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by changing Sections 11-74.4-3 and 11-74.4-7 and by adding Section 11-74.4-3.5 as follows:

(65 ILCS 5/11-74.4-3) (from Ch. 24, par. 11-74.4-3)

Sec. 11-74.4-3. Definitions. The following terms, wherever used or referred to in this Division 74.4 shall have the following respective meanings, unless in any case a different meaning clearly appears from the context.

(a) For any redevelopment project area that has been designated pursuant to this Section by an ordinance adopted prior to November 1, 1999 (the effective date of Public Act 91-478), "blighted area" shall have the meaning set forth in this Section prior to that date.

On and after November 1, 1999, "blighted area" means any improved or vacant area within the boundaries of a redevelopment project area located within the territorial limits of the municipality where:

(1) If improved, industrial, commercial, and residential buildings or improvements are detrimental to the public safety, health, or welfare because of a combination of 5 or more of the following factors, each of which is (i) present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the improved part of the redevelopment project area:

(A) Dilapidation. An advanced state of disrepair or neglect of necessary repairs to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so serious and so extensive that the buildings must be removed.

(B) Obsolescence. The condition or process of falling into disuse. Structures have become ill-suited for the original use.

(C) Deterioration. With respect to buildings, defects including, but not limited to, major defects in the secondary building components such as doors, windows, porches, gutters and downspouts, and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters, sidewalks, off-street parking, and surface storage areas evidence deterioration, including, but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material, and weeds protruding through paved surfaces.

(D) Presence of structures below minimum code standards. All structures that do not meet the standards of zoning, subdivision, building, fire, and other governmental codes

applicable to property, but not including housing and property maintenance codes.

(E) Illegal use of individual structures. The use of structures in violation of applicable federal, State, or local laws, exclusive of those applicable to the presence of structures below minimum code standards.

(F) Excessive vacancies. The presence of buildings that are unoccupied or under-utilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies.

(G) Lack of ventilation, light, or sanitary facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the removal of dust, odor, gas, smoke, or other noxious airborne materials. Inadequate natural light and ventilation means the absence of skylights or windows for interior spaces or rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.

(H) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone, and electrical services that are shown to be inadequate. Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in the redevelopment project area, (ii) deteriorated, antiquated, obsolete, or in disrepair, or (iii) lacking within the redevelopment project area.

(I) Excessive land coverage and overcrowding of structures and community facilities. The over-intensive use of property and the crowding of buildings and accessory facilities onto a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: (i) the presence of buildings either improperly situated on parcels or located on parcels of inadequate size and shape in relation to present-day standards of development for health and safety and (ii) the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or inadequate provision for loading and service.

(J) Deleterious land use or layout. The existence of incompatible land-use relationships, buildings occupied by inappropriate mixed-uses, or uses considered to be noxious, offensive, or unsuitable for the surrounding area.

(K) Environmental clean-up. The proposed redevelopment project area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(L) Lack of community planning. The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area's development. This factor must be documented by evidence of adverse or incompatible land-use relationships, inadequate street layout, improper subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community planning.

(M) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated.

(2) If vacant, the sound growth of the redevelopment project area is impaired by a combination of 2 or more of the following factors, each of which is (i) present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is

clearly present within the intent of the Act and (ii) reasonably distributed throughout the vacant part of the redevelopment project area to which it pertains:

(A) Obsolete platting of vacant land that results in parcels of limited or narrow size or configurations of parcels of irregular size or shape that would be difficult to develop on a planned basis and in a manner compatible with contemporary standards and requirements, or platting that failed to create rights-of-ways for streets or alleys or that created inadequate right-of-way widths for streets, alleys, or other public rights-of-way or that omitted easements for public utilities.

(B) Diversity of ownership of parcels of vacant land sufficient in number to retard or impede the ability to assemble the land for development.

(C) Tax and special assessment delinquencies exist or the property has been the subject of tax sales under the Property Tax Code within the last 5 years.

(D) Deterioration of structures or site improvements in neighboring areas adjacent to the vacant land.

(E) The area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(F) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated.

(3) If vacant, the sound growth of the redevelopment project area is impaired by one of the following factors that (i) is present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) is reasonably distributed throughout the vacant part of the redevelopment project area to which it pertains:

(A) The area consists of one or more unused quarries, mines, or strip mine ponds.

(B) The area consists of unused rail yards, rail tracks, or railroad rights-of-way.

(C) The area, prior to its designation, is subject to (i) chronic flooding that adversely impacts on real property in the area as certified by a registered professional engineer or appropriate regulatory agency or (ii) surface water that discharges from all or a part of the area and contributes to flooding within the same watershed, but only if the redevelopment project provides for facilities or improvements to contribute to the alleviation of all or part of the flooding.

(D) The area consists of an unused or illegal disposal site containing earth, stone, building debris, or similar materials that were removed from construction, demolition, excavation, or dredge sites.

(E) Prior to November 1, 1999, the area is not less than 50 nor more than 100 acres and 75% of which is vacant (notwithstanding that the area has been used for commercial agricultural purposes within 5 years prior to the designation of the redevelopment project area), and the area meets at least one of the factors itemized in paragraph (1) of this subsection, the area has been designated as a town or village center by ordinance or comprehensive plan adopted prior to January 1, 1982, and the area has not been developed for that designated purpose.

(F) The area qualified as a blighted improved area immediately prior to becoming vacant, unless there has been substantial private investment in the immediately surrounding area.

(b) For any redevelopment project area that has been designated pursuant to this Section by an ordinance adopted prior to November 1, 1999 (the effective date of Public Act 91-478), "conservation area" shall have the meaning set forth in this Section prior to that date.

On and after November 1, 1999, "conservation area" means any improved area within the boundaries of a redevelopment project area located within the territorial limits of the municipality in which 50% or more of the structures in the area have an age of 35 years or more. Such an area is not yet a blighted area but because of a combination of 3 or more of the following factors is detrimental to the public safety, health, morals or welfare and such an area may become a blighted area:

(1) Dilapidation. An advanced state of disrepair or neglect of necessary repairs to

the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so serious and so extensive that the buildings must be removed.

(2) Obsolescence. The condition or process of falling into disuse. Structures have become ill-suited for the original use.

(3) Deterioration. With respect to buildings, defects including, but not limited to, major defects in the secondary building components such as doors, windows, porches, gutters and downspouts, and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters, sidewalks, off-street parking, and surface storage areas evidence deterioration, including, but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material, and weeds protruding through paved surfaces.

(4) Presence of structures below minimum code standards. All structures that do not meet the standards of zoning, subdivision, building, fire, and other governmental codes applicable to property, but not including housing and property maintenance codes.

(5) Illegal use of individual structures. The use of structures in violation of applicable federal, State, or local laws, exclusive of those applicable to the presence of structures below minimum code standards.

(6) Excessive vacancies. The presence of buildings that are unoccupied or under-utilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies.

(7) Lack of ventilation, light, or sanitary facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the removal of dust, odor, gas, smoke, or other noxious airborne materials. Inadequate natural light and ventilation means the absence or inadequacy of skylights or windows for interior spaces or rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.

(8) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone, and electrical services that are shown to be inadequate. Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in the redevelopment project area, (ii) deteriorated, antiquated, obsolete, or in disrepair, or (iii) lacking within the redevelopment project area.

(9) Excessive land coverage and overcrowding of structures and community facilities. The over-intensive use of property and the crowding of buildings and accessory facilities onto a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: the presence of buildings either improperly situated on parcels or located on parcels of inadequate size and shape in relation to present-day standards of development for health and safety and the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or inadequate provision for loading and service.

(10) Deleterious land use or layout. The existence of incompatible land-use relationships, buildings occupied by inappropriate mixed-uses, or uses considered to be noxious, offensive, or unsuitable for the surrounding area.

(11) Lack of community planning. The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area's development. This factor must be documented by evidence of adverse or incompatible land-use relationships, inadequate street layout, improper subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community planning.

(12) The area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(13) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years for which information is available.

(c) "Industrial park" means an area in a blighted or conservation area suitable for use by any manufacturing, industrial, research or transportation enterprise, of facilities to include but not be limited to factories, mills, processing plants, assembly plants, packing plants, fabricating plants, industrial distribution centers, warehouses, repair overhaul or service facilities, freight terminals, research facilities, test facilities or railroad facilities.

(d) "Industrial park conservation area" means an area within the boundaries of a redevelopment project area located within the territorial limits of a municipality that is a labor surplus municipality or within 1 1/2 miles of the territorial limits of a municipality that is a labor surplus municipality if the area is annexed to the municipality; which area is zoned as industrial no later than at the time the municipality by ordinance designates the redevelopment project area, and which area includes both vacant land suitable for use as an industrial park and a blighted area or conservation area contiguous to such vacant land.

(e) "Labor surplus municipality" means a municipality in which, at any time during the 6 months before the municipality by ordinance designates an industrial park conservation area, the unemployment rate was over 6% and was also 100% or more of the national average unemployment rate for that same time as published in the United States Department of Labor Bureau of Labor Statistics publication entitled "The Employment Situation" or its successor publication. For the purpose of this subsection, if unemployment rate statistics for the municipality are not available, the unemployment rate in the municipality shall be deemed to be the same as the unemployment rate in the principal county in which the municipality is located.

(f) "Municipality" shall mean a city, village, incorporated town, or a township that is located in the unincorporated portion of a county with 3 million or more inhabitants, if the county adopted an ordinance that approved the township's redevelopment plan.

(g) "Initial Sales Tax Amounts" means the amount of taxes paid under the Retailers' Occupation Tax Act, Use Tax Act, Service Use Tax Act, the Service Occupation Tax Act, the Municipal Retailers' Occupation Tax Act, and the Municipal Service Occupation Tax Act by retailers and servicemen on transactions at places located in a State Sales Tax Boundary during the calendar year 1985.

(g-1) "Revised Initial Sales Tax Amounts" means the amount of taxes paid under the Retailers' Occupation Tax Act, Use Tax Act, Service Use Tax Act, the Service Occupation Tax Act, the Municipal Retailers' Occupation Tax Act, and the Municipal Service Occupation Tax Act by retailers and servicemen on transactions at places located within the State Sales Tax Boundary revised pursuant to Section 11-74.4-8a(9) of this Act.

(h) "Municipal Sales Tax Increment" means an amount equal to the increase in the aggregate amount of taxes paid to a municipality from the Local Government Tax Fund arising from sales by retailers and servicemen within the redevelopment project area or State Sales Tax Boundary, as the case may be, for as long as the redevelopment project area or State Sales Tax Boundary, as the case may be, exist over and above the aggregate amount of taxes as certified by the Illinois Department of Revenue and paid under the Municipal Retailers' Occupation Tax Act and the Municipal Service Occupation Tax Act by retailers and servicemen, on transactions at places of business located in the redevelopment project area or State Sales Tax Boundary, as the case may be, during the base year which shall be the calendar year immediately prior to the year in which the municipality adopted tax increment allocation financing. For purposes of computing the aggregate amount of such taxes for base years occurring prior to 1985, the Department of Revenue shall determine the Initial Sales Tax Amounts for such taxes and deduct therefrom an amount equal to 4% of the aggregate amount of taxes per year for each year the base year is prior to 1985, but not to exceed a total deduction of 12%. The amount so determined shall be known as the "Adjusted Initial Sales Tax Amounts". For purposes of determining the Municipal Sales Tax Increment, the Department of Revenue shall for each period subtract from the amount paid to the municipality from the Local Government Tax Fund arising from sales by retailers and servicemen on transactions located in the redevelopment project area or the State Sales Tax Boundary, as the case may be, the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts for the Municipal Retailers' Occupation Tax Act and the Municipal Service Occupation Tax Act. For the State Fiscal Year 1989, this calculation shall be made by utilizing the calendar year 1987 to determine the tax amounts received. For the State Fiscal Year 1990, this

calculation shall be made by utilizing the period from January 1, 1988, until September 30, 1988, to determine the tax amounts received from retailers and servicemen pursuant to the Municipal Retailers' Occupation Tax and the Municipal Service Occupation Tax Act, which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For the State Fiscal Year 1991, this calculation shall be made by utilizing the period from October 1, 1988, to June 30, 1989, to determine the tax amounts received from retailers and servicemen pursuant to the Municipal Retailers' Occupation Tax and the Municipal Service Occupation Tax Act which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For every State Fiscal Year thereafter, the applicable period shall be the 12 months beginning July 1 and ending June 30 to determine the tax amounts received which shall have deducted therefrom the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts, as the case may be.

(i) "Net State Sales Tax Increment" means the sum of the following: (a) 80% of the first $100,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary; (b) 60% of the amount in excess of $100,000 but not exceeding $500,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary; and (c) 40% of all amounts in excess of $500,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary. If, however, a municipality established a tax increment financing district in a county with a population in excess of 3,000,000 before January 1, 1986, and the municipality entered into a contract or issued bonds after January 1, 1986, but before December 31, 1986, to finance redevelopment project costs within a State Sales Tax Boundary, then the Net State Sales Tax Increment means, for the fiscal years beginning July 1, 1990, and July 1, 1991, 100% of the State Sales Tax Increment annually generated within a State Sales Tax Boundary; and notwithstanding any other provision of this Act, for those fiscal years the Department of Revenue shall distribute to those municipalities 100% of their Net State Sales Tax Increment before any distribution to any other municipality and regardless of whether or not those other municipalities will receive 100% of their Net State Sales Tax Increment. For Fiscal Year 1999, and every year thereafter until the year 2007, for any municipality that has not entered into a contract or has not issued bonds prior to June 1, 1988 to finance redevelopment project costs within a State Sales Tax Boundary, the Net State Sales Tax Increment shall be calculated as follows: By multiplying the Net State Sales Tax Increment by 90% in the State Fiscal Year 1999; 80% in the State Fiscal Year 2000; 70% in the State Fiscal Year 2001; 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for State Fiscal Year 2008 and thereafter.

Municipalities that issued bonds in connection with a redevelopment project in a redevelopment project area within the State Sales Tax Boundary prior to July 29, 1991, or that entered into contracts in connection with a redevelopment project in a redevelopment project area before June 1, 1988, shall continue to receive their proportional share of the Illinois Tax Increment Fund distribution until the date on which the redevelopment project is completed or terminated. If, however, a municipality that issued bonds in connection with a redevelopment project in a redevelopment project area within the State Sales Tax Boundary prior to July 29, 1991 retires the bonds prior to June 30, 2007 or a municipality that entered into contracts in connection with a redevelopment project in a redevelopment project area before June 1, 1988 completes the contracts prior to June 30, 2007, then so long as the redevelopment project is not completed or is not terminated, the Net State Sales Tax Increment shall be calculated, beginning on the date on which the bonds are retired or the contracts are completed, as follows: By multiplying the Net State Sales Tax Increment by 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for State Fiscal Year 2008 and thereafter. Refunding of any bonds issued prior to July 29, 1991, shall not alter the Net State Sales Tax Increment.

(j) "State Utility Tax Increment Amount" means an amount equal to the aggregate increase in State electric and gas tax charges imposed on owners and tenants, other than residential customers, of properties located within the redevelopment project area under Section 9-222 of the Public Utilities Act, over and above the aggregate of such charges as certified by the Department of Revenue and paid by owners and tenants, other than residential customers, of properties within the redevelopment project area during the base year, which shall be the calendar year immediately prior to the year of the adoption of the ordinance authorizing tax increment allocation financing.

(k) "Net State Utility Tax Increment" means the sum of the following: (a) 80% of the first $100,000 of State Utility Tax Increment annually generated by a redevelopment project area; (b) 60% of the amount

in excess of $100,000 but not exceeding $500,000 of the State Utility Tax Increment annually generated by a redevelopment project area; and (c) 40% of all amounts in excess of $500,000 of State Utility Tax Increment annually generated by a redevelopment project area. For the State Fiscal Year 1999, and every year thereafter until the year 2007, for any municipality that has not entered into a contract or has not issued bonds prior to June 1, 1988 to finance redevelopment project costs within a redevelopment project area, the Net State Utility Tax Increment shall be calculated as follows: By multiplying the Net State Utility Tax Increment by 90% in the State Fiscal Year 1999; 80% in the State Fiscal Year 2000; 70% in the State Fiscal Year 2001; 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for the State Fiscal Year 2008 and thereafter.

Municipalities that issue bonds in connection with the redevelopment project during the period from June 1, 1988 until 3 years after the effective date of this Amendatory Act of 1988 shall receive the Net State Utility Tax Increment, subject to appropriation, for 15 State Fiscal Years after the issuance of such bonds. For the 16th through the 20th State Fiscal Years after issuance of the bonds, the Net State Utility Tax Increment shall be calculated as follows: By multiplying the Net State Utility Tax Increment by 90% in year 16; 80% in year 17; 70% in year 18; 60% in year 19; and 50% in year 20. Refunding of any bonds issued prior to June 1, 1988, shall not alter the revised Net State Utility Tax Increment payments set forth above.

(l) "Obligations" mean bonds, loans, debentures, notes, special certificates or other evidence of indebtedness issued by the municipality to carry out a redevelopment project or to refund outstanding obligations.

(m) "Payment in lieu of taxes" means those estimated tax revenues from real property in a redevelopment project area derived from real property that has been acquired by a municipality which according to the redevelopment project or plan is to be used for a private use which taxing districts would have received had a municipality not acquired the real property and adopted tax increment allocation financing and which would result from levies made after the time of the adoption of tax increment allocation financing to the time the current equalized value of real property in the redevelopment project area exceeds the total initial equalized value of real property in said area.

(n) "Redevelopment plan" means the comprehensive program of the municipality for development or redevelopment intended by the payment of redevelopment project costs to reduce or eliminate those conditions the existence of which qualified the redevelopment project area as a "blighted area" or "conservation area" or combination thereof or "industrial park conservation area," and thereby to enhance the tax bases of the taxing districts which extend into the redevelopment project area. On and after November 1, 1999 (the effective date of Public Act 91-478), no redevelopment plan may be approved or amended that includes the development of vacant land (i) with a golf course and related clubhouse and other facilities or (ii) designated by federal, State, county, or municipal government as public land for outdoor recreational activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment plan. For the purpose of this subsection, "recreational activities" is limited to mean camping and hunting. Each redevelopment plan shall set forth in writing the program to be undertaken to accomplish the objectives and shall include but not be limited to:

(A) an itemized list of estimated redevelopment project costs;

(B) evidence indicating that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise;

(C) an assessment of any financial impact of the redevelopment project area on or any increased demand for services from any taxing district affected by the plan and any program to address such financial impact or increased demand;

(D) the sources of funds to pay costs;

(E) the nature and term of the obligations to be issued;

(F) the most recent equalized assessed valuation of the redevelopment project area;

(G) an estimate as to the equalized assessed valuation after redevelopment and the general land uses to apply in the redevelopment project area;

(H) a commitment to fair employment practices and an affirmative action plan;

(I) if it concerns an industrial park conservation area, the plan shall also include a general description of any proposed developer, user and tenant of any property, a description of the type, structure and general character of the facilities to be developed, a description of the type, class and number of new employees to be employed in the operation of the facilities to be developed; and

(J) if property is to be annexed to the municipality, the plan shall include the terms of the annexation agreement.

The provisions of items (B) and (C) of this subsection (n) shall not apply to a municipality that before March 14, 1994 (the effective date of Public Act 88-537) had fixed, either by its corporate authorities or by a commission designated under subsection (k) of Section 11-74.4-4, a time and place for a public hearing as required by subsection (a) of Section 11-74.4-5. No redevelopment plan shall be adopted unless a municipality complies with all of the following requirements:

(1) The municipality finds that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of the redevelopment plan.

(2) The municipality finds that the redevelopment plan and project conform to the comprehensive plan for the development of the municipality as a whole, or, for municipalities with a population of 100,000 or more, regardless of when the redevelopment plan and project was adopted, the redevelopment plan and project either: (i) conforms to the strategic economic development or redevelopment plan issued by the designated planning authority of the municipality, or (ii) includes land uses that have been approved by the planning commission of the municipality.

(3) The redevelopment plan establishes the estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs. Those dates may not be later than the dates set forth under Section 11-74.4-3.5. ~~: shall not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the twenty-third calendar year after the year in which the ordinance approving the redevelopment project area is adopted if the ordinance was adopted on or after January 15, 1981; shall not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the thirty-third calendar year after the year in which the ordinance approving the redevelopment project area if the ordinance was adopted on May 20, 1985 by the Village of Wheeling; and shall not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the thirty-fifth calendar year after the year in which the ordinance approving the redevelopment project area is adopted:~~

~~(A) if the ordinance was adopted before January 15, 1981, or~~

~~(B) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989, or~~

~~(C) if the ordinance was adopted in December 1987 and the redevelopment project is located within one mile of Midway Airport, or~~

~~(D) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County, or~~

~~(E) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law, or~~

~~(F) if the ordinance was adopted in December 1984 by the Village of Rosemont, or~~

~~(G) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least $250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least $250,000 of tax increment bonds were authorized on June 17, 1997, or~~

~~(H) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or if the ordinance was adopted on December 29, 1986 by East St. Louis, or~~

~~(I) if the ordinance was adopted on November 12, 1991 by the Village of Sauget, or~~

~~(J) if the ordinance was adopted on February 11, 1985 by the City of Rock Island, or~~

~~(K) if the ordinance was adopted before December 18, 1986 by the City of Moline, or~~

~~(L) if the ordinance was adopted in September 1988 by Sauk Village, or~~

~~(M) if the ordinance was adopted in October 1993 by Sauk Village, or~~

~~(N) if the ordinance was adopted on December 29, 1986 by the City of Galva, or~~

~~(O) if the ordinance was adopted in March 1991 by the City of Centreville, or~~

~~(P) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis, or~~

~~(Q) if the ordinance was adopted on December 22, 1986 by the City of Aledo, or~~

~~(R) if the ordinance was adopted on February 5, 1990 by the City of Clinton, or~~

~~(S) if the ordinance was adopted on September 6, 1994 by the City of Freeport, or~~

~~(T) if the ordinance was adopted on December 22, 1986 by the City of Tuscola, or~~

~~(U) if the ordinance was adopted on December 23, 1986 by the City of Sparta, or~~

~~(V) if the ordinance was adopted on December 23, 1986 by the City of Beardstown, or~~

~~(W) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville, or~~

~~(X) if the ordinance was adopted on December 29, 1986 by the City of Collinsville, or~~

~~(Y) if the ordinance was adopted on September 14, 1994 by the City of Alton, or~~

~~(Z) if the ordinance was adopted on November 11, 1996 by the City of Lexington, or~~

~~(AA) if the ordinance was adopted on November 5, 1984 by the City of LeRoy, or~~

~~(BB) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of Markham, or~~

~~(CC) if the ordinance was adopted on November 11, 1986 by the City of Pekin, or~~

~~(DD) if the ordinance was adopted on December 15, 1981 by the City of Champaign, or~~

~~(EE) if the ordinance was adopted on December 15, 1986 by the City of Urbana, or~~

~~(FF) if the ordinance was adopted on December 15, 1986 by the Village of Heyworth, or~~

~~(GG) if the ordinance was adopted on February 24, 1992 by the Village of Heyworth, or~~

~~(HH) if the ordinance was adopted on March 16, 1995 by the Village of Heyworth, or~~

~~(II) if the ordinance was adopted on December 23, 1986 by the Town of Cicero, or~~

~~(JJ) if the ordinance was adopted on December 30, 1986 by the City of Effingham, or~~

~~(KK) if the ordinance was adopted on May 9, 1991 by the Village of Tilton, or~~

~~(LL) if the ordinance was adopted on October 20, 1986 by the City of Elmhurst, or~~

~~(MM) if the ordinance was adopted on January 19, 1988 by the City of Waukegan, or~~

~~(NN) if the ordinance was adopted on September 21, 1998 by the City of Waukegan, or~~

~~(OO) if the ordinance was adopted on December 31, 1986 by the City of Sullivan, or~~

~~(PP) if the ordinance was adopted on December 23, 1991 by the City of Sullivan, or~~

~~(QQ) if the ordinance was adopted on December 31, 1986 by the City of Oglesby, or~~

~~(RR) if the ordinance was adopted on July 28, 1987 by the City of Marion, or~~

~~(SS) if the ordinance was adopted on April 23, 1990 by the City of Marion, or~~

~~(TT) if the ordinance was adopted on August 20, 1985 by the Village of Mount Prospect, or~~

~~(UU) if the ordinance was adopted on February 2, 1998 by the Village of Woodhull, or~~

~~(VV) if the ordinance was adopted on April 20, 1993 by the Village of Princeville, or~~

~~(WW) if the ordinance was adopted on July 1, 1986 by the City of Granite City, or~~

~~(XX) if the ordinance was adopted on February 2, 1989 by the Village of Lombard, or~~

~~(YY) if the ordinance was adopted on December 29, 1986 by the Village of Gardner, or~~

~~(ZZ) if the ordinance was adopted on July 14, 1999 by the Village of Paw Paw, or~~

~~(AAA) if the ordinance was adopted on November 17, 1986 by the Village of Franklin Park, or~~

~~(BBB) if the ordinance was adopted on November 20, 1989 by the Village of South Holland, or~~

~~(CCC) if the ordinance was adopted on July 14, 1992 by the Village of Riverdale.~~

~~(CCC) if the ordinance was adopted on December 29, 1986 by the City of Galesburg, or~~

~~(DDD) if the ordinance was adopted on April 1, 1985 by the City of Galesburg.~~

~~(CCC) if the ordinance was adopted on May 21, 1990 by the City of West Chicago.~~

~~(CCC) if the ordinance was adopted on December 16, 1986 by the City of Oak Forest.~~

~~(AAA) if the ordinance was adopted in 1999 by the City of Villa Grove.~~

~~(CCC) if the ordinance was adopted on January 13, 1987 by the Village of Mt. Zion.~~

~~(CCC) if the ordinance was adopted on December 30, 1986 by the Village of Manteno; or~~

~~(DDD) if the ordinance was adopted on April 3, 1989 by the City of Chicago Heights; or~~

~~(EEE) if the ordinance was adopted on January 6, 1999 by the Village of Rosemont, or~~

~~(FFF) if the ordinance was adopted on December 19, 2000 by the Village of Stone Park.~~

~~(CCC) if the ordinance was adopted on December 22, 1986 by the City of DeKalb.~~

~~However, for redevelopment project areas for which bonds were issued before July 29, 1991, or for which contracts were entered into before June 1, 1988, in connection with a redevelopment project in the area within the State Sales Tax Boundary, the estimated dates of completion of the redevelopment project and retirement of obligations to finance redevelopment project costs may be extended by municipal ordinance to December 31, 2013. The termination procedures of subsection (b) of Section 11-74.4-8 are not required for these redevelopment project areas in 2009 but are required in 2013. The extension allowed by this amendatory Act of 1993 shall not apply to real property tax increment allocation financing under Section 11-74.4-8.~~

A municipality may by municipal ordinance amend an existing redevelopment plan to conform to this paragraph (3) as amended by Public Act 91-478, which municipal ordinance may be adopted without further hearing or notice and without complying with the procedures provided in this Act pertaining to an amendment to or the initial approval of a redevelopment plan and project and designation of a redevelopment project area.

~~Those dates, for purposes of real property tax increment allocation financing pursuant to Section~~

~~11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were adopted on or after December 16, 1986 and for which at least $8 million worth of municipal bonds were authorized on or after December 19, 1989 but before January 1, 1990; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.~~

~~Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were established on or after December 1, 1981 but before January 1, 1982 and for which at least $1,500,000 worth of tax increment revenue bonds were authorized on or after September 30, 1990 but before July 1, 1991; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.~~

(3.5) The municipality finds, in the case of an industrial park conservation area, also that the municipality is a labor surplus municipality and that the implementation of the redevelopment plan will reduce unemployment, create new jobs and by the provision of new facilities enhance the tax base of the taxing districts that extend into the redevelopment project area.

(4) If any incremental revenues are being utilized under Section 8(a)(1) or 8(a)(2) of this Act in redevelopment project areas approved by ordinance after January 1, 1986, the municipality finds: (a) that the redevelopment project area would not reasonably be developed without the use of such incremental revenues, and (b) that such incremental revenues will be exclusively utilized for the development of the redevelopment project area.

(5) If the redevelopment plan will not result in displacement of residents from 10 or more inhabited residential units, and the municipality certifies in the plan that such displacement will not result from the plan, a housing impact study need not be performed. If, however, the redevelopment plan would result in the displacement of residents from 10 or more inhabited residential units, or if the redevelopment project area contains 75 or more inhabited residential units and no certification is made, then the municipality shall prepare, as part of the separate feasibility report required by subsection (a) of Section 11-74.4-5, a housing impact study.

Part I of the housing impact study shall include (i) data as to whether the residential units are single family or multi-family units, (ii) the number and type of rooms within the units, if that information is available, (iii) whether the units are inhabited or uninhabited, as determined not less than 45 days before the date that the ordinance or resolution required by subsection (a) of Section 11-74.4-5 is passed, and (iv) data as to the racial and ethnic composition of the residents in the inhabited residential units. The data requirement as to the racial and ethnic composition of the residents in the inhabited residential units shall be deemed to be fully satisfied by data from the most recent federal census.

Part II of the housing impact study shall identify the inhabited residential units in the proposed redevelopment project area that are to be or may be removed. If inhabited residential units are to be removed, then the housing impact study shall identify (i) the number and location of those units that will or may be removed, (ii) the municipality's plans for relocation assistance for those residents in the proposed redevelopment project area whose residences are to be removed, (iii) the availability of replacement housing for those residents whose residences are to be removed, and shall identify the type, location, and cost of the housing, and (iv) the type and extent of relocation assistance to be provided.

(6) On and after November 1, 1999, the housing impact study required by paragraph (5) shall be incorporated in the redevelopment plan for the redevelopment project area.

(7) On and after November 1, 1999, no redevelopment plan shall be adopted, nor an existing plan amended, nor shall residential housing that is occupied by households of low-income and very low-income persons in currently existing redevelopment project areas be removed after November 1, 1999 unless the redevelopment plan provides, with respect to inhabited housing units that are to be removed for households of low-income and very low-income persons, affordable housing and relocation assistance not less than that which would be provided under the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the regulations under that Act, including the eligibility criteria. Affordable housing may be either existing or newly constructed housing. For purposes of this paragraph (7), "low-income households", "very low-income households", and "affordable housing" have the meanings set forth in the Illinois Affordable Housing Act. The municipality shall make a good faith effort to ensure that this affordable

housing is located in or near the redevelopment project area within the municipality.

(8) On and after November 1, 1999, if, after the adoption of the redevelopment plan for the redevelopment project area, any municipality desires to amend its redevelopment plan to remove more inhabited residential units than specified in its original redevelopment plan, that change shall be made in accordance with the procedures in subsection (c) of Section 11-74.4-5.

(9) For redevelopment project areas designated prior to November 1, 1999, the redevelopment plan may be amended without further joint review board meeting or hearing, provided that the municipality shall give notice of any such changes by mail to each affected taxing district and registrant on the interested party registry, to authorize the municipality to expend tax increment revenues for redevelopment project costs defined by paragraphs (5) and (7.5), subparagraphs (E) and (F) of paragraph (11), and paragraph (11.5) of subsection (q) of Section 11-74.4-3, so long as the changes do not increase the total estimated redevelopment project costs set out in the redevelopment plan by more than 5% after adjustment for inflation from the date the plan was adopted.

(o) "Redevelopment project" means any public and private development project in furtherance of the objectives of a redevelopment plan. On and after November 1, 1999 (the effective date of Public Act 91-478), no redevelopment plan may be approved or amended that includes the development of vacant land (i) with a golf course and related clubhouse and other facilities or (ii) designated by federal, State, county, or municipal government as public land for outdoor recreational activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment plan. For the purpose of this subsection, "recreational activities" is limited to mean camping and hunting.

(p) "Redevelopment project area" means an area designated by the municipality, which is not less in the aggregate than 1 1/2 acres and in respect to which the municipality has made a finding that there exist conditions which cause the area to be classified as an industrial park conservation area or a blighted area or a conservation area, or a combination of both blighted areas and conservation areas.

(q) "Redevelopment project costs" mean and include the sum total of all reasonable or necessary costs incurred or estimated to be incurred, and any such costs incidental to a redevelopment plan and a redevelopment project. Such costs include, without limitation, the following:

(1) Costs of studies, surveys, development of plans, and specifications, implementation and administration of the redevelopment plan including but not limited to staff and professional service costs for architectural, engineering, legal, financial, planning or other services, provided however that no charges for professional services may be based on a percentage of the tax increment collected; except that on and after November 1, 1999 (the effective date of Public Act 91-478), no contracts for professional services, excluding architectural and engineering services, may be entered into if the terms of the contract extend beyond a period of 3 years. In addition, "redevelopment project costs" shall not include lobbying expenses. After consultation with the municipality, each tax increment consultant or advisor to a municipality that plans to designate or has designated a redevelopment project area shall inform the municipality in writing of any contracts that the consultant or advisor has entered into with entities or individuals that have received, or are receiving, payments financed by tax increment revenues produced by the redevelopment project area with respect to which the consultant or advisor has performed, or will be performing, service for the municipality. This requirement shall be satisfied by the consultant or advisor before the commencement of services for the municipality and thereafter whenever any other contracts with those individuals or entities are executed by the consultant or advisor;

(1.5) After July 1, 1999, annual administrative costs shall not include general overhead or administrative costs of the municipality that would still have been incurred by the municipality if the municipality had not designated a redevelopment project area or approved a redevelopment plan;

(1.6) The cost of marketing sites within the redevelopment project area to prospective businesses, developers, and investors;

(2) Property assembly costs, including but not limited to acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, site preparation, site improvements that serve as an engineered barrier addressing ground level or below ground environmental contamination, including, but not limited to parking lots and other concrete or asphalt barriers, and the clearing and grading of land;

(3) Costs of rehabilitation, reconstruction or repair or remodeling of existing public or private buildings, fixtures, and leasehold improvements; and the cost of replacing an existing public building if pursuant to the implementation of a redevelopment project the existing public building is to be demolished to use the site for private investment or devoted to a different use requiring private investment;

(4) Costs of the construction of public works or improvements, except that on and after November 1, 1999, redevelopment project costs shall not include the cost of constructing a new municipal public building principally used to provide offices, storage space, or conference facilities or vehicle storage, maintenance, or repair for administrative, public safety, or public works personnel and that is not intended to replace an existing public building as provided under paragraph (3) of subsection (q) of Section 11-74.4-3 unless either (i) the construction of the new municipal building implements a redevelopment project that was included in a redevelopment plan that was adopted by the municipality prior to November 1, 1999 or (ii) the municipality makes a reasonable determination in the redevelopment plan, supported by information that provides the basis for that determination, that the new municipal building is required to meet an increase in the need for public safety purposes anticipated to result from the implementation of the redevelopment plan;

(5) Costs of job training and retraining projects, including the cost of "welfare to work" programs implemented by businesses located within the redevelopment project area;

(6) Financing costs, including but not limited to all necessary and incidental expenses related to the issuance of obligations and which may include payment of interest on any obligations issued hereunder including interest accruing during the estimated period of construction of any redevelopment project for which such obligations are issued and for not exceeding 36 months thereafter and including reasonable reserves related thereto;

(7) To the extent the municipality by written agreement accepts and approves the same, all or a portion of a taxing district's capital costs resulting from the redevelopment project necessarily incurred or to be incurred within a taxing district in furtherance of the objectives of the redevelopment plan and project.

(7.5) For redevelopment project areas designated (or redevelopment project areas amended to add or increase the number of tax-increment-financing assisted housing units) on or after November 1, 1999, an elementary, secondary, or unit school district's increased costs attributable to assisted housing units located within the redevelopment project area for which the developer or redeveloper receives financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the assisted housing sites necessary for the completion of that housing as authorized by this Act, and which costs shall be paid by the municipality from the Special Tax Allocation Fund when the tax increment revenue is received as a result of the assisted housing units and shall be calculated annually as follows:

(A) for foundation districts, excluding any school district in a municipality with a population in excess of 1,000,000, by multiplying the district's increase in attendance resulting from the net increase in new students enrolled in that school district who reside in housing units within the redevelopment project area that have received financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for the completion of that housing as authorized by this Act since the designation of the redevelopment project area by the most recently available per capita tuition cost as defined in Section 10-20.12a of the School Code less any increase in general State aid as defined in Section 18-8.05 of the School Code attributable to these added new students subject to the following annual limitations:

(i) for unit school districts with a district average 1995-96 Per Capita Tuition Charge of less than $5,900, no more than 25% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act;

(ii) for elementary school districts with a district average 1995-96 Per Capita Tuition Charge of less than $5,900, no more than 17% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act; and

(iii) for secondary school districts with a district average 1995-96 Per Capita Tuition Charge of less than $5,900, no more than 8% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act.

(B) For alternate method districts, flat grant districts, and foundation districts with a district average 1995-96 Per Capita Tuition Charge equal to or more than $5,900, excluding any school district with a population in excess of 1,000,000, by multiplying the district's increase in attendance resulting from the net increase in new students enrolled in that school district who reside in housing units within the redevelopment project area that have received financial assistance

through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for the completion of that housing as authorized by this Act since the designation of the redevelopment project area by the most recently available per capita tuition cost as defined in Section 10-20.12a of the School Code less any increase in general state aid as defined in Section 18-8.05 of the School Code attributable to these added new students subject to the following annual limitations:

(i) for unit school districts, no more than 40% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act;

(ii) for elementary school districts, no more than 27% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act; and

(iii) for secondary school districts, no more than 13% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act.

(C) For any school district in a municipality with a population in excess of 1,000,000, the following restrictions shall apply to the reimbursement of increased costs under this paragraph (7.5):

(i) no increased costs shall be reimbursed unless the school district certifies that each of the schools affected by the assisted housing project is at or over its student capacity;

(ii) the amount reimbursable shall be reduced by the value of any land donated to the school district by the municipality or developer, and by the value of any physical improvements made to the schools by the municipality or developer; and

(iii) the amount reimbursed may not affect amounts otherwise obligated by the terms of any bonds, notes, or other funding instruments, or the terms of any redevelopment agreement.

Any school district seeking payment under this paragraph (7.5) shall, after July 1 and before September 30 of each year, provide the municipality with reasonable evidence to support its claim for reimbursement before the municipality shall be required to approve or make the payment to the school district. If the school district fails to provide the information during this period in any year, it shall forfeit any claim to reimbursement for that year. School districts may adopt a resolution waiving the right to all or a portion of the reimbursement otherwise required by this paragraph (7.5). By acceptance of this reimbursement the school district waives the right to directly or indirectly set aside, modify, or contest in any manner the establishment of the redevelopment project area or projects;

(7.7) For redevelopment project areas designated (or redevelopment project areas amended to add or increase the number of tax-increment-financing assisted housing units) on or after January 1, 2005 (the effective date of Public Act 93-961), a public library district's increased costs attributable to assisted housing units located within the redevelopment project area for which the developer or redeveloper receives financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the assisted housing sites necessary for the completion of that housing as authorized by this Act shall be paid to the library district by the municipality from the Special Tax Allocation Fund when the tax increment revenue is received as a result of the assisted housing units. This paragraph (7.7) applies only if (i) the library district is located in a county that is subject to the Property Tax Extension Limitation Law or (ii) the library district is not located in a county that is subject to the Property Tax Extension Limitation Law but the district is prohibited by any other law from increasing its tax levy rate without a prior voter referendum.

The amount paid to a library district under this paragraph (7.7) shall be calculated by multiplying (i) the net increase in the number of persons eligible to obtain a library card in that district who reside in housing units within the redevelopment project area that have received financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for the completion of that housing as authorized by this Act since the designation of the redevelopment project area by (ii) the per-patron cost of providing library services so long as it does not exceed $120. The per-patron cost shall be the Total Operating Expenditures Per Capita as stated in the most recent Illinois Public Library Statistics produced by the Library Research Center at the University of Illinois. The municipality may deduct from the amount that it must pay to a library district under this paragraph any amount that it has voluntarily paid to the library district from the tax increment

revenue. The amount paid to a library district under this paragraph (7.7) shall be no more than 2% of the amount produced by the assisted housing units and deposited into the Special Tax Allocation Fund.

A library district is not eligible for any payment under this paragraph (7.7) unless the library district has experienced an increase in the number of patrons from the municipality that created the tax-increment-financing district since the designation of the redevelopment project area.

Any library district seeking payment under this paragraph (7.7) shall, after July 1 and before September 30 of each year, provide the municipality with convincing evidence to support its claim for reimbursement before the municipality shall be required to approve or make the payment to the library district. If the library district fails to provide the information during this period in any year, it shall forfeit any claim to reimbursement for that year. Library districts may adopt a resolution waiving the right to all or a portion of the reimbursement otherwise required by this paragraph (7.7). By acceptance of such reimbursement, the library district shall forfeit any right to directly or indirectly set aside, modify, or contest in any manner whatsoever the establishment of the redevelopment project area or projects;

(8) Relocation costs to the extent that a municipality determines that relocation costs shall be paid or is required to make payment of relocation costs by federal or State law or in order to satisfy subparagraph (7) of subsection (n);

(9) Payment in lieu of taxes;

(10) Costs of job training, retraining, advanced vocational education or career education, including but not limited to courses in occupational, semi-technical or technical fields leading directly to employment, incurred by one or more taxing districts, provided that such costs (i) are related to the establishment and maintenance of additional job training, advanced vocational education or career education programs for persons employed or to be employed by employers located in a redevelopment project area; and (ii) when incurred by a taxing district or taxing districts other than the municipality, are set forth in a written agreement by or among the municipality and the taxing district or taxing districts, which agreement describes the program to be undertaken, including but not limited to the number of employees to be trained, a description of the training and services to be provided, the number and type of positions available or to be available, itemized costs of the program and sources of funds to pay for the same, and the term of the agreement. Such costs include, specifically, the payment by community college districts of costs pursuant to Sections 3-37, 3-38, 3-40 and 3-40.1 of the Public Community College Act and by school districts of costs pursuant to Sections 10-22.20a and 10-23.3a of The School Code;

(11) Interest cost incurred by a redeveloper related to the construction, renovation or rehabilitation of a redevelopment project provided that:

(A) such costs are to be paid directly from the special tax allocation fund established pursuant to this Act;

(B) such payments in any one year may not exceed 30% of the annual interest costs incurred by the redeveloper with regard to the redevelopment project during that year;

(C) if there are not sufficient funds available in the special tax allocation fund to make the payment pursuant to this paragraph (11) then the amounts so due shall accrue and be payable when sufficient funds are available in the special tax allocation fund;

(D) the total of such interest payments paid pursuant to this Act may not exceed 30% of the total (i) cost paid or incurred by the redeveloper for the redevelopment project plus (ii) redevelopment project costs excluding any property assembly costs and any relocation costs incurred by a municipality pursuant to this Act; and

(E) the cost limits set forth in subparagraphs (B) and (D) of paragraph (11) shall be modified for the financing of rehabilitated or new housing units for low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act. The percentage of 75% shall be substituted for 30% in subparagraphs (B) and (D) of paragraph (11).

(F) Instead of the eligible costs provided by subparagraphs (B) and (D) of paragraph (11), as modified by this subparagraph, and notwithstanding any other provisions of this Act to the contrary, the municipality may pay from tax increment revenues up to 50% of the cost of construction of new housing units to be occupied by low-income households and very low-income households as defined in Section 3 of the Illinois Affordable Housing Act. The cost of construction of those units may be derived from the proceeds of bonds issued by the municipality under this Act or other constitutional or statutory authority or from other sources of municipal revenue that may be reimbursed from tax increment revenues or the proceeds of bonds issued to finance the construction of that housing.

The eligible costs provided under this subparagraph (F) of paragraph (11) shall be an eligible cost for the construction, renovation, and rehabilitation of all low and very low-income housing units, as defined in Section 3 of the Illinois Affordable Housing Act, within the redevelopment project area. If the low and very low-income units are part of a residential redevelopment project that includes units not affordable to low and very low-income households, only the low and very low-income units shall be eligible for benefits under subparagraph (F) of paragraph (11). The standards for maintaining the occupancy by low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act, of those units constructed with eligible costs made available under the provisions of this subparagraph (F) of paragraph (11) shall be established by guidelines adopted by the municipality. The responsibility for annually documenting the initial occupancy of the units by low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act, shall be that of the then current owner of the property. For ownership units, the guidelines will provide, at a minimum, for a reasonable recapture of funds, or other appropriate methods designed to preserve the original affordability of the ownership units. For rental units, the guidelines will provide, at a minimum, for the affordability of rent to low and very low-income households. As units become available, they shall be rented to income-eligible tenants. The municipality may modify these guidelines from time to time; the guidelines, however, shall be in effect for as long as tax increment revenue is being used to pay for costs associated with the units or for the retirement of bonds issued to finance the units or for the life of the redevelopment project area, whichever is later.

(11.5) If the redevelopment project area is located within a municipality with a population of more than 100,000, the cost of day care services for children of employees from low-income families working for businesses located within the redevelopment project area and all or a portion of the cost of operation of day care centers established by redevelopment project area businesses to serve employees from low-income families working in businesses located in the redevelopment project area. For the purposes of this paragraph, "low-income families" means families whose annual income does not exceed 80% of the municipal, county, or regional median income, adjusted for family size, as the annual income and municipal, county, or regional median income are determined from time to time by the United States Department of Housing and Urban Development.

(12) Unless explicitly stated herein the cost of construction of new privately-owned buildings shall not be an eligible redevelopment project cost.

(13) After November 1, 1999 (the effective date of Public Act 91-478), none of the redevelopment project costs enumerated in this subsection shall be eligible redevelopment project costs if those costs would provide direct financial support to a retail entity initiating operations in the redevelopment project area while terminating operations at another Illinois location within 10 miles of the redevelopment project area but outside the boundaries of the redevelopment project area municipality. For purposes of this paragraph, termination means a closing of a retail operation that is directly related to the opening of the same operation or like retail entity owned or operated by more than 50% of the original ownership in a redevelopment project area, but it does not mean closing an operation for reasons beyond the control of the retail entity, as documented by the retail entity, subject to a reasonable finding by the municipality that the current location contained inadequate space, had become economically obsolete, or was no longer a viable location for the retailer or serviceman.

If a special service area has been established pursuant to the Special Service Area Tax Act or Special Service Area Tax Law, then any tax increment revenues derived from the tax imposed pursuant to the Special Service Area Tax Act or Special Service Area Tax Law may be used within the redevelopment project area for the purposes permitted by that Act or Law as well as the purposes permitted by this Act.

(r) "State Sales Tax Boundary" means the redevelopment project area or the amended redevelopment project area boundaries which are determined pursuant to subsection (9) of Section 11-74.4-8a of this Act. The Department of Revenue shall certify pursuant to subsection (9) of Section 11-74.4-8a the appropriate boundaries eligible for the determination of State Sales Tax Increment.

(s) "State Sales Tax Increment" means an amount equal to the increase in the aggregate amount of taxes paid by retailers and servicemen, other than retailers and servicemen subject to the Public Utilities Act, on transactions at places of business located within a State Sales Tax Boundary pursuant to the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act, and the Service Occupation Tax Act, except such portion of such increase that is paid into the State and Local Sales Tax Reform Fund, the Local Government Distributive Fund, the Local Government Tax Fund and the County and Mass Transit District Fund, for as long as State participation exists, over and above the Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts for such taxes as certified by the Department of Revenue and paid under those Acts by retailers and servicemen on

transactions at places of business located within the State Sales Tax Boundary during the base year which shall be the calendar year immediately prior to the year in which the municipality adopted tax increment allocation financing, less 3.0% of such amounts generated under the Retailers' Occupation Tax Act, Use Tax Act and Service Use Tax Act and the Service Occupation Tax Act, which sum shall be appropriated to the Department of Revenue to cover its costs of administering and enforcing this Section. For purposes of computing the aggregate amount of such taxes for base years occurring prior to 1985, the Department of Revenue shall compute the Initial Sales Tax Amount for such taxes and deduct therefrom an amount equal to 4% of the aggregate amount of taxes per year for each year the base year is prior to 1985, but not to exceed a total deduction of 12%. The amount so determined shall be known as the "Adjusted Initial Sales Tax Amount". For purposes of determining the State Sales Tax Increment the Department of Revenue shall for each period subtract from the tax amounts received from retailers and servicemen on transactions located in the State Sales Tax Boundary, the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or Revised Initial Sales Tax Amounts for the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act and the Service Occupation Tax Act. For the State Fiscal Year 1989 this calculation shall be made by utilizing the calendar year 1987 to determine the tax amounts received. For the State Fiscal Year 1990, this calculation shall be made by utilizing the period from January 1, 1988, until September 30, 1988, to determine the tax amounts received from retailers and servicemen, which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For the State Fiscal Year 1991, this calculation shall be made by utilizing the period from October 1, 1988, until June 30, 1989, to determine the tax amounts received from retailers and servicemen, which shall have deducted therefrom nine-twelfths of the certified Initial State Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For every State Fiscal Year thereafter, the applicable period shall be the 12 months beginning July 1 and ending on June 30, to determine the tax amounts received which shall have deducted therefrom the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts. Municipalities intending to receive a distribution of State Sales Tax Increment must report a list of retailers to the Department of Revenue by October 31, 1988 and by July 31, of each year thereafter.

(t) "Taxing districts" means counties, townships, cities and incorporated towns and villages, school, road, park, sanitary, mosquito abatement, forest preserve, public health, fire protection, river conservancy, tuberculosis sanitarium and any other municipal corporations or districts with the power to levy taxes.

(u) "Taxing districts' capital costs" means those costs of taxing districts for capital improvements that are found by the municipal corporate authorities to be necessary and directly result from the redevelopment project.

(v) As used in subsection (a) of Section 11-74.4-3 of this Act, "vacant land" means any parcel or combination of parcels of real property without industrial, commercial, and residential buildings which has not been used for commercial agricultural purposes within 5 years prior to the designation of the redevelopment project area, unless the parcel is included in an industrial park conservation area or the parcel has been subdivided; provided that if the parcel was part of a larger tract that has been divided into 3 or more smaller tracts that were accepted for recording during the period from 1950 to 1990, then the parcel shall be deemed to have been subdivided, and all proceedings and actions of the municipality taken in that connection with respect to any previously approved or designated redevelopment project area or amended redevelopment project area are hereby validated and hereby declared to be legally sufficient for all purposes of this Act. For purposes of this Section and only for land subject to the subdivision requirements of the Plat Act, land is subdivided when the original plat of the proposed Redevelopment Project Area or relevant portion thereof has been properly certified, acknowledged, approved, and recorded or filed in accordance with the Plat Act and a preliminary plat, if any, for any subsequent phases of the proposed Redevelopment Project Area or relevant portion thereof has been properly approved and filed in accordance with the applicable ordinance of the municipality.

(w) "Annual Total Increment" means the sum of each municipality's annual Net Sales Tax Increment and each municipality's annual Net Utility Tax Increment. The ratio of the Annual Total Increment of each municipality to the Annual Total Increment for all municipalities, as most recently calculated by the Department, shall determine the proportional shares of the Illinois Tax Increment Fund to be distributed to each municipality.

(Source: P.A. 94-260, eff. 7-19-05; 94-268, eff. 7-19-05; 94-297, eff. 7-21-05; 94-302, eff. 7-21-05; 94-702, eff. 6-1-06; 94-704, eff. 12-5-05; 94-711, eff. 6-1-06; 94-778, eff. 5-19-06; 94-782, eff. 5-19-06; 94-783, eff. 5-19-06; 94-810, eff. 5-26-06; 94-903, eff. 6-22-06; 94-1091, eff. 1-26-07; 94-1092, eff.

1-26-07; 95-15, eff. 7-16-07; 95-164, eff. 1-1-08; 95-331, eff. 8-21-07; 95-346, eff. 8-21-07; 95-459, eff. 8-27-07; 95-653, eff. 1-1-08; 95-662, eff. 10-11-07; 95-683, eff. 10-19-07; 95-709, eff. 1-29-08; revised 1-31-08.)

(65 ILCS 5/11-74.4-3.5 new)

Sec. 11-74.4-3.5. Completion dates for redevelopment projects.

(a) Unless otherwise stated in this Section, the estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer, as provided in subsection (b) of Section 11-74.4-8 of this Act, is to be made with respect to ad valorem taxes levied in the 23rd calendar year after the year in which the ordinance approving the redevelopment project area was adopted if the ordinance was adopted on or after January 15, 1981.

(b) The estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the 33rd calendar year after the year in which the ordinance approving the redevelopment project area was adopted, if the ordinance was adopted on May 20, 1985 by the Village of Wheeling.

(c) The estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the 35th calendar year after the year in which the ordinance approving the redevelopment project area was adopted:

(1) if the ordinance was adopted before January 15, 1981;

(2) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989;

(3) if the ordinance was adopted in December, 1987 and the redevelopment project is located within one mile of Midway Airport;

(4) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County;

(5) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law;

(6) if the ordinance was adopted in December 1984 by the Village of Rosemont;

(7) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least $250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least $250,000 of tax increment bonds were authorized on June 17, 1997;

(8) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or if the ordinance was adopted on December 29, 1986 by East St. Louis;

(9) if the ordinance was adopted on November 12, 1991 by the Village of Sauget;

(10) if the ordinance was adopted on February 11, 1985 by the City of Rock Island;

(11) if the ordinance was adopted before December 18, 1986 by the City of Moline;

(12) if the ordinance was adopted in September 1988 by Sauk Village;

(13) if the ordinance was adopted in October 1993 by Sauk Village;

(14) if the ordinance was adopted on December 29, 1986 by the City of Galva;

(15) if the ordinance was adopted in March 1991 by the City of Centreville;

(16) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis;

(17) if the ordinance was adopted on December 22, 1986 by the City of Aledo;

(18) if the ordinance was adopted on February 5, 1990 by the City of Clinton;

(19) if the ordinance was adopted on September 6, 1994 by the City of Freeport;

(20) if the ordinance was adopted on December 22, 1986 by the City of Tuscola;

(21) if the ordinance was adopted on December 23, 1986 by the City of Sparta;

(22) if the ordinance was adopted on December 23, 1986 by the City of Beardstown;

(23) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville;

(24) if the ordinance was adopted on December 29, 1986 by the City of Collinsville;

(25) if the ordinance was adopted on September 14, 1994 by the City of Alton;

(26) if the ordinance was adopted on November 11, 1996 by the City of Lexington;

(27) if the ordinance was adopted on November 5, 1984 by the City of LeRoy;

(28) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of Markham;
(29) if the ordinance was adopted on November 11, 1986 by the City of Pekin;
(30) if the ordinance was adopted on December 15, 1981 by the City of Champaign;
(31) if the ordinance was adopted on December 15, 1986 by the City of Urbana;
(32) if the ordinance was adopted on December 15, 1986 by the Village of Heyworth;
(33) if the ordinance was adopted on February 24, 1992 by the Village of Heyworth;
(34) if the ordinance was adopted on March 16, 1995 by the Village of Heyworth;
(35) if the ordinance was adopted on December 23, 1986 by the Town of Cicero;
(36) if the ordinance was adopted on December 30, 1986 by the City of Effingham;
(37) if the ordinance was adopted on May 9, 1991 by the Village of Tilton;
(38) if the ordinance was adopted on October 20, 1986 by the City of Elmhurst;
(39) if the ordinance was adopted on January 19, 1988 by the City of Waukegan;
(40) if the ordinance was adopted on September 21, 1998 by the City of Waukegan;
(41) if the ordinance was adopted on December 31, 1986 by the City of Sullivan;
(42) if the ordinance was adopted on December 23, 1991 by the City of Sullivan;
(43) if the ordinance was adopted on December 31, 1986 by the City of Oglesby;
(44) if the ordinance was adopted on July 28, 1987 by the City of Marion;
(45) if the ordinance was adopted on April 23, 1990 by the City of Marion;
(46) if the ordinance was adopted on August 20, 1985 by the Village of Mount Prospect;
(47) if the ordinance was adopted on February 2, 1998 by the Village of Woodhull;
(48) if the ordinance was adopted on April 20, 1993 by the Village of Princeville;
(49) if the ordinance was adopted on July 1, 1986 by the City of Granite City;
(50) if the ordinance was adopted on February 2, 1989 by the Village of Lombard;
(51) if the ordinance was adopted on December 29, 1986 by the Village of Gardner;
(52) if the ordinance was adopted on July 14, 1999 by the Village of Paw Paw;
(53) if the ordinance was adopted on November 17, 1986 by the Village of Franklin Park;
(54) if the ordinance was adopted on November 20, 1989 by the Village of South Holland;
(55) if the ordinance was adopted on July 14, 1992 by the Village of Riverdale;
(56) if the ordinance was adopted on December 29, 1986 by the City of Galesburg;
(57) if the ordinance was adopted on April 1, 1985 by the City of Galesburg;
(58) if the ordinance was adopted on May 21, 1990 by the City of West Chicago;
(59) if the ordinance was adopted on December 16, 1986 by the City of Oak Forest;
(60) if the ordinance was adopted in 1999 by the City of Villa Grove;
(61) if the ordinance was adopted on January 13, 1987 by the Village of Mt. Zion;
(62) if the ordinance was adopted on December 30, 1986 by the Village of Manteno;
(63) if the ordinance was adopted on April 3, 1989 by the City of Chicago Heights;
(64) if the ordinance was adopted on January 6, 1999 by the Village of Rosemont;
(65) if the ordinance was adopted on December 19, 2000 by the Village of Stone Park;
(66) if the ordinance was adopted on December 22, 1986 by the City of DeKalb; or
(67) if the ordinance was adopted on December 2, 1986 by the City of Aurora.

(d) For redevelopment project areas for which bonds were issued before July 29, 1991, or for which contracts were entered into before June 1, 1988, in connection with a redevelopment project in the area within the State Sales Tax Boundary, the estimated dates of completion of the redevelopment project and retirement of obligations to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may be extended by municipal ordinance to December 31, 2013. The termination procedures of subsection (b) of Section 11-74.4-8 are not required for these redevelopment project areas in 2009 but are required in 2013. The extension allowed by Public Act 87-1272 shall not apply to real property tax increment allocation financing under Section 11-74.4-8.

(e) Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were adopted on or after December 16, 1986 and for which at least $8 million worth of municipal bonds were authorized on or after December 19, 1989 but before January 1, 1990; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

(f) Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were established on or after December 1, 1981 but before January 1, 1982 and for which at least $1,500,000 worth of tax increment revenue bonds were authorized on or after September 30, 1990 but before July 1, 1991;

provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

(g) In consolidating the material relating to completion dates from Sections 11-74.4-3 and 11-74.4-7 into this Section, it is not the intent of the 95th General Assembly to make any substantive change in the law, except for the extension of the completion date for the City of Aurora set forth under item (67) of subsection (c) of this Section.

(65 ILCS 5/11-74.4-7) (from Ch. 24, par. 11-74.4-7)

Sec. 11-74.4-7. Obligations secured by the special tax allocation fund set forth in Section 11-74.4-8 for the redevelopment project area may be issued to provide for redevelopment project costs. Such obligations, when so issued, shall be retired in the manner provided in the ordinance authorizing the issuance of such obligations by the receipts of taxes levied as specified in Section 11-74.4-9 against the taxable property included in the area, by revenues as specified by Section 11-74.4-8a and other revenue designated by the municipality. A municipality may in the ordinance pledge all or any part of the funds in and to be deposited in the special tax allocation fund created pursuant to Section 11-74.4-8 to the payment of the redevelopment project costs and obligations. Any pledge of funds in the special tax allocation fund shall provide for distribution to the taxing districts and to the Illinois Department of Revenue of moneys not required, pledged, earmarked, or otherwise designated for payment and securing of the obligations and anticipated redevelopment project costs and such excess funds shall be calculated annually and deemed to be "surplus" funds. In the event a municipality only applies or pledges a portion of the funds in the special tax allocation fund for the payment or securing of anticipated redevelopment project costs or of obligations, any such funds remaining in the special tax allocation fund after complying with the requirements of the application or pledge, shall also be calculated annually and deemed "surplus" funds. All surplus funds in the special tax allocation fund shall be distributed annually within 180 days after the close of the municipality's fiscal year by being paid by the municipal treasurer to the County Collector, to the Department of Revenue and to the municipality in direct proportion to the tax incremental revenue received as a result of an increase in the equalized assessed value of property in the redevelopment project area, tax incremental revenue received from the State and tax incremental revenue received from the municipality, but not to exceed as to each such source the total incremental revenue received from that source. The County Collector shall thereafter make distribution to the respective taxing districts in the same manner and proportion as the most recent distribution by the county collector to the affected districts of real property taxes from real property in the redevelopment project area.

Without limiting the foregoing in this Section, the municipality may in addition to obligations secured by the special tax allocation fund pledge for a period not greater than the term of the obligations towards payment of such obligations any part or any combination of the following: (a) net revenues of all or part of any redevelopment project; (b) taxes levied and collected on any or all property in the municipality; (c) the full faith and credit of the municipality; (d) a mortgage on part or all of the redevelopment project; or (e) any other taxes or anticipated receipts that the municipality may lawfully pledge.

Such obligations may be issued in one or more series bearing interest at such rate or rates as the corporate authorities of the municipality shall determine by ordinance. Such obligations shall bear such date or dates, mature at such time or times not exceeding 20 years from their respective dates, be in such denomination, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, contain such covenants, terms and conditions, and be subject to redemption as such ordinance shall provide. Obligations issued pursuant to this Act may be sold at public or private sale at such price as shall be determined by the corporate authorities of the municipalities. No referendum approval of the electors shall be required as a condition to the issuance of obligations pursuant to this Division except as provided in this Section.

In the event the municipality authorizes issuance of obligations pursuant to the authority of this Division secured by the full faith and credit of the municipality, which obligations are other than obligations which may be issued under home rule powers provided by Article VII, Section 6 of the Illinois Constitution, or pledges taxes pursuant to (b) or (c) of the second paragraph of this section, the ordinance authorizing the issuance of such obligations or pledging such taxes shall be published within 10 days after such ordinance has been passed in one or more newspapers, with general circulation within such municipality. The publication of the ordinance shall be accompanied by a notice of (1) the specific number of voters required to sign a petition requesting the question of the issuance of such obligations or pledging taxes to be submitted to the electors; (2) the time in which such petition must be filed; and (3) the date of the prospective referendum. The municipal clerk shall provide a petition form to any

individual requesting one.

If no petition is filed with the municipal clerk, as hereinafter provided in this Section, within 30 days after the publication of the ordinance, the ordinance shall be in effect. But, if within that 30 day period a petition is filed with the municipal clerk, signed by electors in the municipality numbering 10% or more of the number of registered voters in the municipality, asking that the question of issuing obligations using full faith and credit of the municipality as security for the cost of paying for redevelopment project costs, or of pledging taxes for the payment of such obligations, or both, be submitted to the electors of the municipality, the corporate authorities of the municipality shall call a special election in the manner provided by law to vote upon that question, or, if a general, State or municipal election is to be held within a period of not less than 30 or more than 90 days from the date such petition is filed, shall submit the question at the next general, State or municipal election. If it appears upon the canvass of the election by the corporate authorities that a majority of electors voting upon the question voted in favor thereof, the ordinance shall be in effect, but if a majority of the electors voting upon the question are not in favor thereof, the ordinance shall not take effect.

The ordinance authorizing the obligations may provide that the obligations shall contain a recital that they are issued pursuant to this Division, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

In the event the municipality authorizes issuance of obligations pursuant to this Section secured by the full faith and credit of the municipality, the ordinance authorizing the obligations may provide for the levy and collection of a direct annual tax upon all taxable property within the municipality sufficient to pay the principal thereof and interest thereon as it matures, which levy may be in addition to and exclusive of the maximum of all other taxes authorized to be levied by the municipality, which levy, however, shall be abated to the extent that monies from other sources are available for payment of the obligations and the municipality certifies the amount of said monies available to the county clerk.

A certified copy of such ordinance shall be filed with the county clerk of each county in which any portion of the municipality is situated, and shall constitute the authority for the extension and collection of the taxes to be deposited in the special tax allocation fund.

A municipality may also issue its obligations to refund in whole or in part, obligations theretofore issued by such municipality under the authority of this Act, whether at or prior to maturity, provided however, that the last maturity of the refunding obligations may not be later than the dates set forth under Section 11-74.4-3.5. ~~shall not be expressed to mature later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the twenty-third calendar year after the year in which the ordinance approving the redevelopment project area is adopted if the ordinance was adopted on or after January 15, 1981, not later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the thirty-third calendar year after the year in which the ordinance approving the redevelopment project area if the ordinance was adopted on May 20, 1985 by the Village of Wheeling, and not later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the thirty-fifth calendar year after the year in which the ordinance approving the redevelopment project area is adopted (A) if the ordinance was adopted before January 15, 1981, or (B) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989, or (C) if the ordinance was adopted in December, 1987 and the redevelopment project is located within one mile of Midway Airport, or (D) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County, or (E) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law, or (F) if the ordinance was adopted in December 1984 by the Village of Rosemont, or (G) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least $250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least $250,000 of tax increment bonds were authorized on June 17, 1997, or (H) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or (I) if the ordinance was adopted on December 29, 1986 by East St. Louis, or if the ordinance was adopted on November 12, 1991 by the Village of Sauget, or (J) if the ordinance was adopted on February 11, 1985 by the City of Rock Island, or (K) if the ordinance was adopted before December 18, 1986 by the City of Moline, or (L) if the ordinance was adopted in September 1988 by Sauk Village, or (M) if the ordinance was adopted in October 1993 by Sauk Village, or (N) if the ordinance was adopted on December 29, 1986 by the City of Galva, or (O) if the ordinance was adopted in March 1991 by the City of Centreville, or (P) if~~

~~the ordinance was adopted on January 23, 1991 by the City of East St. Louis, or (Q) if the ordinance was adopted on December 22, 1986 by the City of Aledo, or (R) if the ordinance was adopted on February 5, 1990 by the City of Clinton, or (S) if the ordinance was adopted on September 6, 1994 by the City of Freeport, or (T) if the ordinance was adopted on December 22, 1986 by the City of Tuscola, or (U) if the ordinance was adopted on December 23, 1986 by the City of Sparta, or (V) if the ordinance was adopted on December 23, 1986 by the City of Beardstown, or (W) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville, or (X) if the ordinance was adopted on December 29, 1986 by the City of Collinsville, or (Y) if the ordinance was adopted on September 14, 1994 by the City of Alton, or (Z) if the ordinance was adopted on November 11, 1996 by the City of Lexington, or (AA) if the ordinance was adopted on November 5, 1984 by the City of LeRoy, or (BB) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of Markham, or (CC) if the ordinance was adopted on November 11, 1986 by the City of Pekin, or (DD) if the ordinance was adopted on December 15, 1981 by the City of Champaign, or (EE) if the ordinance was adopted on December 15, 1986 by the City of Urbana, or (FF) if the ordinance was adopted on December 15, 1986 by the Village of Heyworth, or (GG) if the ordinance was adopted on February 24, 1992 by the Village of Heyworth, or (HH) if the ordinance was adopted on March 16, 1995 by the Village of Heyworth, or (II) if the ordinance was adopted on December 23, 1986 by the Town of Cicero, or (JJ) if the ordinance was adopted on December 30, 1986 by the City of Effingham, or (KK) if the ordinance was adopted on May 9, 1991 by the Village of Tilton, or (LL) if the ordinance was adopted on October 20, 1986 by the City of Elmhurst, or (MM) if the ordinance was adopted on January 19, 1988 by the City of Waukegan, or (NN) if the ordinance was adopted on September 21, 1998 by the City of Waukegan, or (OO) if the ordinance was adopted on December 31, 1986 by the City of Sullivan, or (PP) if the ordinance was adopted on December 23, 1991 by the City of Sullivan, or (QQ) if the ordinance was adopted on December 31, 1986 by the City of Oglesby, or (RR) if the ordinance was adopted on July 28, 1987 by the City of Marion, or (SS) if the ordinance was adopted on April 23, 1990 by the City of Marion, or (TT) if the ordinance was adopted on August 20, 1985 by the Village of Mount Prospect, or (UU) if the ordinance was adopted on February 2, 1998 by the Village of Woodhull, or (VV) if the ordinance was adopted on April 20, 1993 by the Village of Princeville, or (WW) if the ordinance was adopted on July 1, 1986 by the City of Granite City, or (XX) if the ordinance was adopted on February 2, 1989 by the Village of Lombard, or (YY) if the ordinance was adopted on December 29, 1986 by the Village of Gardner, or (ZZ) if the ordinance was adopted on July 14, 1999 by the Village of Paw Paw, or (AAA) if the ordinance was adopted on November 17, 1986 by the Village of Franklin Park, or (BBB) if the ordinance was adopted on November 20, 1989 by the Village of South Holland, or (CCC) if the ordinance was adopted on July 14, 1992 by the Village of Riverdale, or (CCC) if the ordinance was adopted on December 29, 1986 by the City of Galesburg, or (DDD) if the ordinance was adopted on April 1, 1985 by the City of Galesburg, or (CCC) if the ordinance was adopted on May 21, 1990 by the City of West Chicago, or (CCC) if the ordinance was adopted on December 16, 1986 by the City of Oak Forest or, (AAA) if the ordinance was adopted in 1999 by the City of Villa Grove, or (CCC) if the ordinance was adopted on January 13, 1987 by the Village of Mt. Zion, or (CCC) if the ordinance was adopted on December 30, 1986 by the Village of Manteno, or (DDD) if the ordinance was adopted on April 3, 1989 by the City of Chicago Heights, or (EEE) if the ordinance was adopted on January 6, 1999 by the Village of Rosemont, or (FFF) if the ordinance was adopted on December 19, 2000 by the Village of Stone Park, or (CCC) if the ordinance was adopted on December 22, 1986 by the City of DeKalb and, for redevelopment project areas for which bonds were issued before July 29, 1991, in connection with a redevelopment project in the area within the State Sales Tax Boundary and which were extended by municipal ordinance under subsection (n) of Section 11-74.4-3, the last maturity of the refunding obligations shall not be expressed to mature later than the date on which the redevelopment project area is terminated or December 31, 2013, whichever date occurs first.~~

In the event a municipality issues obligations under home rule powers or other legislative authority the proceeds of which are pledged to pay for redevelopment project costs, the municipality may, if it has followed the procedures in conformance with this division, retire said obligations from funds in the special tax allocation fund in amounts and in such manner as if such obligations had been issued pursuant to the provisions of this division.

All obligations heretofore or hereafter issued pursuant to this Act shall not be regarded as indebtedness of the municipality issuing such obligations or any other taxing district for the purpose of any limitation imposed by law.

(Source: P.A. 94-260, eff. 7-19-05; 94-297, eff. 7-21-05; 94-302, eff. 7-21-05; 94-702, eff. 6-1-06; 94-704, eff. 12-5-05; 94-711, eff. 6-1-06; 94-778, eff. 5-19-06; 94-782, eff. 5-19-06; 94-783, eff. 5-19-06; 94-810, eff. 5-26-06; 94-903, eff. 6-22-06; 94-1091, eff. 1-26-07; 94-1092, eff. 1-26-07; 95-15,

eff. 7-16-07; 95-164, eff. 1-1-08; 95-331, eff. 8-21-07; 95-346, eff. 8-21-07; 95-459, eff. 8-27-07; 95-653, eff. 1-1-08; 95-662, eff. 10-11-07; 95-683, eff. 10-19-07; 95-709, eff. 1-29-08; revised 1-31-08.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Holmes, **Senate Bill No. 2678**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Schoenberg
Brady	Haine	Maloney	Silverstein
Burzynski	Halvorson	Martinez	Steans
Clayborne	Harmon	Meeks	Sullivan
Collins	Hendon	Millner	Syverson
Cronin	Holmes	Munoz	Trotter
Crotty	Hultgren	Murphy	Watson
Cullerton	Hunter	Noland	Wilhelmi
Dahl	Jacobs	Pankau	Mr. President
DeLeo	Jones, J.	Peterson	
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Demuzio, **Senate Bill No. 2686** was recalled from the order of third reading to the order of second reading.

Senator Demuzio offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2686

AMENDMENT NO. 1. Amend Senate Bill 2686 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Section 24-11 as follows:

(105 ILCS 5/24-11) (from Ch. 122, par. 24-11)

Sec. 24-11. Boards of Education - Boards of School Inspectors - Contractual continued service. As used in this and the succeeding Sections of this Article:

"Teacher" means any or all school district employees regularly required to be certified under laws

relating to the certification of teachers.

"Board" means board of directors, board of education, or board of school inspectors, as the case may be.

"School term" means that portion of the school year, July 1 to the following June 30, when school is in actual session.

This Section and Sections 24-12 through 24-16 of this Article apply only to school districts having less than 500,000 inhabitants.

Any teacher who has been employed in any district as a full-time teacher for a probationary period of 2 consecutive school terms shall enter upon contractual continued service unless given written notice of dismissal stating the specific reason therefor, by certified mail, return receipt requested by the employing board at least 45 days before the end of such period; except that (i) for a teacher who is first employed as a full-time teacher by a school district on or after January 1, 1998 and who has not before that date already entered upon contractual continued service in that district, the probationary period shall be 4 consecutive school terms before the teacher shall enter upon contractual continued service and (ii) for a teacher who is first employed as a full-time teacher by a school district on or after the effective date of this amendatory Act of the 95th General Assembly but who, prior to employment with the district, already entered upon contractual continued service in another school district pursuant to this Section, the probationary period shall be 2 consecutive school terms before the teacher shall enter upon contractual continued service. For the purpose of determining contractual continued service, the first probationary year shall be any full-time employment from a date before November 1 through the end of the school year. If, however, a teacher who was first employed prior to January 1, 1998 has not had one school term of full-time teaching experience before the beginning of a probationary period of 2 consecutive school terms, the employing board may at its option extend the probationary period for one additional school term by giving the teacher written notice by certified mail, return receipt requested, at least 45 days before the end of the second school term of the period of 2 consecutive school terms referred to above. This notice must state the reasons for the one year extension and must outline the corrective actions that the teacher must take to satisfactorily complete probation. The changes made by this amendatory Act of 1998 are declaratory of existing law.

Any full-time teacher who is not completing the last year of the probationary period described in the preceding paragraph, or any teacher employed on a full-time basis not later than January 1 of the school term, shall receive written notice from the employing board at least 45 days before the end of any school term whether or not he will be re-employed for the following school term. If the board fails to give such notice, the employee shall be deemed reemployed, and not later than the close of the then current school term the board shall issue a regular contract to the employee as though the board had reemployed him in the usual manner.

Contractual continued service shall continue in effect the terms and provisions of the contract with the teacher during the last school term of the probationary period, subject to this Act and the lawful regulations of the employing board. This Section and succeeding Sections do not modify any existing power of the board except with respect to the procedure of the discharge of a teacher and reductions in salary as hereinafter provided. Contractual continued service status shall not restrict the power of the board to transfer a teacher to a position which the teacher is qualified to fill or to make such salary adjustments as it deems desirable, but unless reductions in salary are uniform or based upon some reasonable classification, any teacher whose salary is reduced shall be entitled to a notice and a hearing as hereinafter provided in the case of certain dismissals or removals.

The employment of any teacher in a program of a special education joint agreement established under Section 3-15.14, 10-22.31 or 10-22.31a shall be under this and succeeding Sections of this Article. For purposes of attaining and maintaining contractual continued service and computing length of continuing service as referred to in this Section and Section 24-12, employment in a special educational joint program shall be deemed a continuation of all previous certificated employment of such teacher for such joint agreement whether the employer of the teacher was the joint agreement, the regional superintendent, or one of the participating districts in the joint agreement.

Any teacher employed after July 1, 1987 as a full-time teacher in a program of a special education joint agreement, whether the program is operated by the joint agreement or a member district on behalf of the joint agreement, for a probationary period of two consecutive years shall enter upon contractual continued service in all of the programs conducted by such joint agreement which the teacher is legally qualified to hold; except that (i) for a teacher who is first employed on or after January 1, 1998 in a program of a special education joint agreement and who has not before that date already entered upon contractual continued service in all of the programs conducted by the joint agreement that the teacher is legally qualified to hold, the probationary period shall be 4 consecutive years before the teacher enters

upon contractual continued service in all of those programs and (ii) for a teacher who is first employed on or after the effective date of this amendatory Act of the 95th General Assembly in a program of a special education joint agreement but who, prior to this employment, already entered upon contractual continued service in the programs of another joint agreement pursuant to this Section, the probationary period shall be 2 consecutive years before the teacher enters upon contractual continued service. In the event of a reduction in the number of programs or positions in the joint agreement, the teacher on contractual continued service shall be eligible for employment in the joint agreement programs for which the teacher is legally qualified in order of greater length of continuing service in the joint agreement unless an alternative method of determining the sequence of dismissal is established in a collective bargaining agreement. In the event of the dissolution of a joint agreement, the teacher on contractual continued service who is legally qualified shall be assigned to any comparable position in a member district currently held by a teacher who has not entered upon contractual continued service or held by a teacher who has entered upon contractual continued service with shorter length of contractual continued service.

The governing board of the joint agreement, or the administrative district, if so authorized by the articles of agreement of the joint agreement, rather than the board of education of a school district, may carry out employment and termination actions including dismissals under this Section and Section 24-12.

For purposes of this and succeeding Sections of this Article, a program of a special educational joint agreement shall be defined as instructional, consultative, supervisory, administrative, diagnostic, and related services which are managed by the special educational joint agreement designed to service two or more districts which are members of the joint agreement.

Each joint agreement shall be required to post by February 1, a list of all its employees in order of length of continuing service in the joint agreement, unless an alternative method of determining a sequence of dismissal is established in an applicable collective bargaining agreement.

The employment of any teacher in a special education program authorized by Section 14-1.01 through 14-14.01, or a joint educational program established under Section 10-22.31a, shall be under this and the succeeding Sections of this Article, and such employment shall be deemed a continuation of the previous employment of such teacher in any of the participating districts, regardless of the participation of other districts in the program. Any teacher employed as a full-time teacher in a special education program prior to September 23, 1987 in which 2 or more school districts participate for a probationary period of 2 consecutive years shall enter upon contractual continued service in each of the participating districts, subject to this and the succeeding Sections of this Article, and in the event of the termination of the program shall be eligible for any vacant position in any of such districts for which such teacher is qualified.

(Source: P.A. 90-548, eff. 1-1-98; 90-653, eff. 7-29-98.)

Section 90. The State Mandates Act is amended by adding Section 8.32 as follows:

(30 ILCS 805/8.32 new)

Sec. 8.32. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 95th General Assembly.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Demuzio, **Senate Bill No. 2686**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Schoenberg
Brady	Haine	Maloney	Silverstein
Burzynski	Halvorson	Martinez	Steans
Clayborne	Harmon	Meeks	Sullivan
Collins	Hendon	Millner	Syverson
Cronin	Holmes	Munoz	Trotter
Crotty	Hultgren	Murphy	Watson
Cullerton	Hunter	Noland	Wilhelmi
Dahl	Jacobs	Pankau	Mr. President
DeLeo	Jones, J.	Peterson	
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Demuzio, **Senate Bill No. 2687** was recalled from the order of third reading to the order of second reading.

Senator Demuzio offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2687

AMENDMENT NO. 1. Amend Senate Bill 2687 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Sections 21-27 and 22-45 as follows:

(105 ILCS 5/21-27)

Sec. 21-27. The Illinois Teaching Excellence Program.

(a) The Illinois Teaching Excellence Program is hereby established to provide categorical funding for monetary incentives and bonuses for teachers and school counselors who are employed by school districts and who hold a Master Certificate. The State Board of Education shall allocate and distribute to each school district an amount as annually appropriated by the General Assembly from federal funds for the Illinois Teaching Excellence Program. The State Board of Education's annual budget must set out by separate line item the appropriation for the program. Unless otherwise provided by appropriation, each school district's annual allocation shall be the sum of the amounts earned for the following incentives and bonuses:

(1) An annual payment of $3,000 to be paid to (A) each teacher who holds both a Master Certificate and a corresponding certificate issued by the National Board for Professional Teaching Standards ~~successfully completes the program leading to and who receives a Master Certificate~~ and is employed as a teacher by a school district and (B) each school counselor who holds both a Master Certificate and a corresponding certificate issued by the National Board for Professional Teaching Standards ~~successfully completes the program leading to and who receives a Master Certificate~~ and is employed as a school counselor by a school district. The school district shall distribute this payment to each eligible teacher or school counselor as a single payment or in not more than 3 payments.

(2) An annual incentive equal to $1,000 shall be paid to (A) each teacher or school counselor who holds a Master Certificate, who is employed as a teacher or school counselor by a school district, and who agrees, in writing, to provide at least 30 hours of mentoring during that year to classroom teachers or school counselors, as applicable, and (B) each retired teacher or school counselor who holds both a Master Certificate and a current corresponding certificate issued by the National Board for Professional Teaching Standards and who agrees, in writing, to provide at least 30 hours of mentoring during that

year to classroom teachers or school counselors, as applicable. An additional annual incentive equal to $1,000 shall be paid to (I) each teacher or school counselor who holds a

Master Certificate, who is employed as a teacher or school counselor by a school district, and who agrees, in writing, to provide an additional 30 ~~60~~ hours of mentoring during that year to classroom teachers or school counselors, as applicable, and (II) each retired teacher or school counselor who holds both a Master Certificate and a current corresponding certificate issued by the National Board for Professional Teaching Standards and who agrees, in writing, to provide an additional 30 hours of mentoring during that year to classroom teachers or school counselors, as applicable, for a total of 60 hours of mentoring and $2,000 in incentives under this paragraph (2). Mentoring under this paragraph (2) ~~This mentoring~~ may include, either singly or in combination, (i) providing high quality professional development for new and experienced teachers or school counselors, as applicable, and/or ~~, and~~ (ii) assisting National Board for Professional Teaching Standards (NBPTS) candidates through the NBPTS certification process. The school district shall distribute ~~50% of~~ each annual incentive payment upon completion of the 30 hours or 60 hours of ~~the~~ required mentoring , whichever is applicable. ~~and the remaining 50% of the incentive upon completion of the required 60 hours of mentoring. Credit may not be granted by a school district for mentoring or related services provided during a regular school day or during the total number of days of required service for the school year.~~

(3) An annual incentive equal to $2,000 shall be paid to (A) each teacher or school counselor who holds a Master Certificate, who is employed as a teacher or school counselor by a school district, and who agrees, in writing, to provide at least 30 hours of mentoring during that year to classroom teachers or school counselors, as applicable, in schools on academic early warning status or in schools in which 50% or more of the students receive free or reduced price lunches, or both, and (B) each retired teacher or school counselor who holds both a Master Certificate and a current corresponding certificate issued by the National Board for Professional Teaching Standards and who agrees, in writing, to provide at least 30 hours of mentoring during that year to classroom teachers or school counselors, as applicable, in schools on academic early warning status or in schools in which 50% or more of the students receive free or reduced price lunches, or both. An additional annual incentive equal to $2,000 ~~$3,000~~ shall be paid to (I) each teacher or school counselor who holds a Master

Certificate, who is employed as a teacher or school counselor by a school district, and who agrees, in writing, to provide an additional 30 ~~60~~ hours of mentoring during that year to classroom teachers or school counselors, as applicable, in schools on academic early warning status or in schools in which 50% or more of the students receive free or reduced price lunches, or both, and (II) each retired teacher or school counselor who holds both a Master Certificate and a current corresponding certificate issued by the National Board for Professional Teaching Standards and who agrees, in writing, to provide an additional 30 hours of mentoring during that year to classroom teachers or school counselors, as applicable, in schools on academic early warning status or in schools in which 50% or more of the students receive free or reduced price lunches, or both, for a total of 60 hours of mentoring and $4,000 in incentives under this paragraph (3). Mentoring under this paragraph (3) may include, either singly or in combination, (i) providing high quality professional development for new and experienced teachers or school counselors, as applicable, in schools on academic early warning status or in schools in which 50% or more of the students receive free or reduced price lunches, or both, and/or (ii) assisting National Board for Professional Teaching Standards (NBPTS) candidates through the NBPTS certification process in schools on academic early warning status or in schools in which 50% or more of the students receive free or reduced price lunches, or both. The school district shall distribute ~~50% of~~ each annual incentive payment upon completion of the 30 hours or 60 hours of ~~the~~ required mentoring , whichever is applicable. ~~and the remaining 50% of the incentive upon completion of the required 60 hours of mentoring. Credit may not be granted by a school district for mentoring or related services provided during a regular school day or during the total number of days of required service for the school year.~~

(4) If funds are available under the Illinois Teaching Excellence Program in a given fiscal year, the following Master Certificate incentives shall be provided:

(A) As a first priority, monetary support of up to $2,000 per person shall be provided for first-time application fees.

(B) As a second priority, monetary support for NBPTS's Take One! process of up to $395 per person shall be provided for cohorts of teachers in schools on academic early warning status or schools deemed to be a priority by the State Board of Education.

(C) As a third priority, monetary support of up to $350 per retake shall be provided for up to 3 retakes.

(D) As a fourth priority, monetary support of up to $850 per person shall be provided for

renewals for those persons who have not received prior State or federal fee support.

(b) Each regional superintendent of schools shall provide information about National Board certification administered by ~~the Master Certificate Program of~~ the National Board for Professional Teaching Standards (NBPTS) and this Section ~~amendatory Act of the 91st General Assembly~~ to each individual seeking to register or renew a certificate under Section 21-14 of this Code.

(c) After the incentives and bonuses under subsection (a) of this Section have been expended in a given fiscal year, if there are additional funds available under the Illinois Teaching Excellence Program, up to $250,000 must be used for the continuation of an appropriate electronic system to process Master Certificates and various payments.

(d) After funds have been expended under priorities (A) through (D) of paragraph (4) of subsection (a) of this Section in a given fiscal year and if there are any additional funds available under the Illinois Teaching Excellence Program, remaining funds must be spent on candidate support and recruitment.

(Source: P.A. 93-470, eff. 8-8-03; 94-105, eff. 7-1-05; 94-901, eff. 6-22-06.)

(105 ILCS 5/22-45)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 22-45. Illinois P-20 Council.

(a) The General Assembly finds that preparing Illinoisans for success in school and the workplace requires a continuum of quality education from preschool through graduate school. This State needs a framework to guide education policy and integrate education at every level. A statewide coordinating council to study and make recommendations concerning education at all levels can avoid fragmentation of policies, promote improved teaching and learning, and continue to cultivate and demonstrate strong accountability and efficiency. Establishing an Illinois P-20 Council will develop a statewide agenda that will move the State towards the common goals of improving academic achievement, increasing college access and success, improving use of existing data and measurements, developing improved accountability, promoting lifelong learning, easing the transition to college, and reducing remediation. A pre-kindergarten through grade 20 agenda will strengthen this State's economic competitiveness by producing a highly-skilled workforce. In addition, lifelong learning plans will enhance this State's ability to leverage funding.

(b) There is created the Illinois P-20 Council. The Illinois P-20 Council shall include all of the following members:

(1) The Governor or his or designee, to serve as chairperson.

(2) Four members of the General Assembly, one appointed by the Speaker of the House of Representatives, one appointed by the Minority Leader of the House of Representatives, one appointed by the President of the Senate, and one appointed by the Minority Leader of the Senate.

(3) Six at-large members appointed by the Governor as follows, with 2 members being from the City of Chicago, 2 members being from Lake County, McHenry County, Kane County, DuPage County, Will County, or that part of Cook County outside of the City of Chicago, and 2 members being from the remainder of the State:

(A) one representative of civic leaders;

(B) one representative of local government;

(C) one representative of trade unions;

(D) one representative of nonprofit organizations or foundations;

(E) one representative of parents' organizations; and

(F) one education research expert.

(4) Five members appointed by statewide business organizations and business trade associations.

(5) Six members appointed by statewide professional organizations and associations representing pre-kindergarten through grade 20 teachers, community college faculty, and public university faculty.

(6) Two members appointed by associations representing local school administrators and school board members. One of these members must be a special education administrator.

(7) One member representing community colleges, appointed by the Illinois Council of Community College Presidents.

(8) One member representing 4-year independent colleges and universities, appointed by a statewide organization representing private institutions of higher learning.

(9) One member representing public 4-year universities, appointed jointly by the university presidents and chancellors.

(10) Ex-officio members as follows ~~from the following State agencies, boards, commissions, and councils~~:

(A) The State Superintendent of Education or his or her designee.

(B) The Executive Director of the Board of Higher Education or his or her designee.

(C) The President and Chief Executive Officer of the Illinois Community College Board or his or her designee.

(D) The Executive Director of the Illinois Student Assistance Commission or his or her designee.

(E) The Co-chairpersons of the Illinois Workforce Investment Board or their designee.

(F) The Director of Commerce and Economic Opportunity or his or her designee.

(G) The Chairperson of the Illinois Early Learning Council or his or her designee.

(H) The President of the Illinois Mathematics and Science Academy or his or her designee.

(I) The President of the Illinois Adult and Continuing Educators Association or his or her designee.

Ex-officio members shall have no vote on the Illinois P-20 Council.

Appointed members shall serve for staggered terms expiring on July 1 of the first, second, or third calendar year following their appointments or until their successors are appointed and have qualified. Staggered terms shall be determined by lot at the organizing meeting of the Illinois P-20 Council.

Vacancies shall be filled in the same manner as original appointments, and any member so appointed shall serve during the remainder of the term for which the vacancy occurred.

(c) The Illinois P-20 Council shall be funded through State appropriations to support staff activities, research, data-collection, and dissemination. The Illinois P-20 Council shall be staffed by the Office of the Governor, in coordination with relevant State agencies, boards, and commissions. The Illinois Education Research Council shall provide research and coordinate research collection activities for the Illinois P-20 Council.

(d) The Illinois P-20 Council shall have all of the following duties:

(1) To make recommendations to do all of the following:

(A) Coordinate pre-kindergarten through grade 20 (graduate school) education in this State through working at the intersections of educational systems to promote collaborative infrastructure.

(B) Coordinate and leverage strategies, actions, legislation, policies, and resources of all stakeholders to support fundamental and lasting improvement in this State's public schools, community colleges, and universities.

(C) Better align the high school curriculum with postsecondary expectations.

(D) Better align assessments across all levels of education.

(E) Reduce the need for students entering institutions of higher education to take remedial courses.

(F) Smooth the transition from high school to college.

(G) Improve high school and college graduation rates.

(H) Improve the rigor and relevance of academic standards for college and workforce readiness.

(I) Better align college and university teaching programs with the needs of Illinois schools.

(2) To advise the Governor, the General Assembly, the State's education and higher education agencies, and the State's workforce and economic development boards and agencies on policies related to lifelong learning for Illinois students and families.

(3) To articulate a framework for systemic educational improvement that will enable every student to meet or exceed Illinois learning standards and be well-prepared to succeed in the workforce and community.

(4) To provide an estimated fiscal impact for implementation of all Council recommendations.

(e) The chairperson of the Illinois P-20 Council may authorize the creation of working groups focusing on areas of interest to Illinois educational and workforce development, including without limitation the following areas:

(1) Preparation, recruitment, and certification of highly qualified teachers.

(2) Mentoring and induction of highly qualified teachers.

(3) The diversity of highly qualified teachers.

(4) Funding for highly qualified teachers, including developing a strategic and

collaborative plan to seek federal and private grants to support initiatives targeting teacher preparation and its impact on student achievement.

(5) Highly effective administrators.

(6) Illinois birth through age 3 education, pre-kindergarten, and early childhood education.

(7) The assessment, alignment, outreach, and network of college and workforce readiness efforts.

(8) Alternative routes to college access.

(9) Research data and accountability.

The chairperson of the Illinois P-20 Council may designate Council members to serve as working group chairpersons. Working groups may invite organizations and individuals representing pre-kindergarten through grade 20 interests to participate in discussions, data collection, and dissemination.

(Source: P.A. 95-626, eff. 6-1-08.)

Section 99. Effective date. This Act takes effect June 1, 2008.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Demuzio, **Senate Bill No. 2687**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 55; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Maloney	Schoenberg
Burzynski	Halvorson	Martinez	Silverstein
Clayborne	Harmon	Meeks	Steans
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Cullerton	Hultgren	Murphy	Trotter
Dahl	Hunter	Noland	Watson
DeLeo	Jacobs	Pankau	Wilhelmi
Delgado	Jones, J.	Peterson	Mr. President
Demuzio	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator Luechtefeld asked and obtained unanimous consent for the Journal to reflect his affirmative vote on **Senate Bill No. 2687 .**

SENATE BILL RECALLED

On motion of Senator Kotowski, **Senate Bill No. 2688** was recalled from the order of third reading to the order of second reading.

Senator Kotowski offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2688

AMENDMENT NO. 1. Amend Senate Bill 2688 by replacing everything after the enacting clause with the following:

"Section 5. The School Safety Drill Act is amended by changing Section 20 as follows:

(105 ILCS 128/20)

Sec. 20. Number of drills; incidents covered; local authority participation.

(a) During each academic year, schools must conduct a minimum of 3 school evacuation drills to address and prepare students and school personnel for fire incidents. These drills must meet all of the following criteria:

(1) One of the 3 school evacuation drills shall require the participation of the appropriate local fire department or district.

(A) Each local fire department or fire district must contact the appropriate school administrator or his or her designee no later than September 1 of each year in order to arrange for the participation of the department or district in the school evacuation drill.

(B) Each school administrator or his or her designee must contact the responding local fire official no later than September 15 of each year and propose to the local fire official 4 dates within the month of October, during at least 2 different weeks of October, on which the drill shall occur. The fire official may choose any of the 4 available dates, and if he or she does so, the drill shall occur on that date.

(C) The school administrator or his or her designee and the local fire official may also, by mutual agreement, set any other date for the drill, including a date outside of the month of October.

(D) If the fire official does not select one of the 4 offered dates in October or set another date by mutual agreement, the requirement that the school include the local fire service in one of its mandatory school evacuation drills shall be waived. Schools, however, shall continue to be strongly encouraged to include the fire service in a school evacuation drill at a mutually agreed-upon time.

(E) Upon the participation of the local fire service, the appropriate local fire official shall certify that the school evacuation drill was conducted.

(F) When scheduling the school evacuation drill, the school administrator or his or her designee and the local fire department or fire district may, by mutual agreement on or before September 14, choose to waive the provisions of subparagraphs (B), (C), and (D) of this paragraph (1).

Additional school evacuation drills for fire incidents may involve the participation of the appropriate local fire department or district.

(2) Schools may conduct additional school evacuation drills to account for other evacuation incidents, including without limitation suspicious items or bomb threats.

(3) All drills shall be conducted at each school building that houses school children.

(b) During each academic year, schools must conduct a minimum of one bus evacuation drill. This drill shall be accounted for in the curriculum in all public schools and in all other educational institutions in this State that are supported or maintained, in whole or in part, by public funds and that provide instruction in any of the grades kindergarten through 12. This curriculum shall include instruction in safe bus riding practices for all students. Schools may conduct additional bus evacuation drills. All drills shall be conducted at each school building that houses school children.

(c) During each academic year, schools must ~~may~~ conduct a minimum of one ~~strongly encouraged~~ law enforcement drill ~~drills~~ to address and prepare students and school personnel for incidents, including without limitation reverse evacuations, lock-downs, shootings, bomb threats, or hazardous materials incidents.

(1) A ~~If conducted, a~~ law enforcement drill must meet all of the following criteria:

(A) During each calendar year, the appropriate local law enforcement agency shall contact the appropriate school administrator to request to participate in a law enforcement drill and may actively participate on-site in a drill.

(B) Upon the participation of a local law enforcement agency in a law enforcement drill, the appropriate local law enforcement official shall certify that the law enforcement drill was

conducted.

(2) Schools may conduct additional law enforcement drills at their discretion.

(3) All drills shall be conducted at each school building that houses school children.

(d) During each academic year, schools must conduct a minimum of one severe weather and shelter-in-place drill to address and prepare students and school personnel for possible tornado incidents and may conduct additional severe weather and shelter-in-place drills to account for other incidents, including without limitation earthquakes or hazardous materials. All drills shall be conducted at each school building that houses school children.

(Source: P.A. 94-600, eff. 8-16-05.)

Section 90. The State Mandates Act is amended by adding Section 8.32 as follows:

(30 ILCS 805/8.32 new)

Sec. 8.32. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 95th General Assembly.

Section 99. Effective date. This Act takes effect July 1, 2008.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Kotowski, **Senate Bill No. 2688**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 56; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Schoenberg
Brady	Haine	Maloney	Silverstein
Burzynski	Halvorson	Martinez	Steans
Clayborne	Harmon	Meeks	Syverson
Collins	Hendon	Millner	Trotter
Cronin	Holmes	Munoz	Watson
Crotty	Hultgren	Murphy	Wilhelmi
Cullerton	Hunter	Noland	Mr. President
Dahl	Jacobs	Pankau	
DeLeo	Jones, J.	Peterson	
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Noland, **Senate Bill No. 2689** was recalled from the order of third reading to the order of second reading.

Senator Noland offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2689

AMENDMENT NO. 1. Amend Senate Bill 2689 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Section 24-6 as follows:

(105 ILCS 5/24-6) (from Ch. 122, par. 24-6)

Sec. 24-6. Sick leave. The school boards of all school districts, including special charter districts, but not including school districts in municipalities of 500,000 or more, shall grant their full-time teachers, and also shall grant such of their other employees as are eligible to participate in the Illinois Municipal Retirement Fund under the "600-Hour Standard" established, or under such other eligibility participation standard as may from time to time be established, by rules and regulations now or hereafter promulgated by the Board of that Fund under Section 7-198 of the Illinois Pension Code, as now or hereafter amended, sick leave provisions not less in amount than 10 days at full pay in each school year. If any such teacher ~~or employee~~ does not use the full amount of annual leave thus allowed, the unused amount shall be allowed to accumulate to a minimum available leave of 180 days at full pay, including the leave of the current year. If an employee other than a teacher under this Section does not use the full amount of annual leave thus allowed, the unused amount shall be allowed to accumulate to a minimum available leave of 240 days at full pay, including the leave of the current year. If an employee other than a teacher under this Section is subject to a reduction in force, the employing district shall maintain on its records all accumulated sick leave days, which must be recredited to the employee at the time of recall. If the employee is not recalled, then the district shall pay the employee, at the expiration of the recall period, the cash value for all accumulated sick leave at the daily rate of pay at the time of the layoff. Sick leave shall be interpreted to mean personal illness, quarantine at home, serious illness or death in the immediate family or household, or birth, adoption, or placement for adoption. The school board may require a certificate from a physician licensed in Illinois to practice medicine and surgery in all its branches, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to perform health examinations, or a physician assistant who has been delegated the authority to perform health examinations by his or her supervising physician, or if the treatment is by prayer or spiritual means, that of a spiritual adviser or practitioner of such person's faith, as a basis for pay during leave after an absence of 3 days for personal illness, or as it may deem necessary in other cases. If the school board does require a certificate as a basis for pay during leave of less than 3 days, the school board shall pay, from school funds, the expenses incurred by the teachers or other employees in obtaining the certificate.

If, by reason of any change in the boundaries of school districts, or by reason of the creation of a new school district, the employment of a teacher is transferred to a new or different board, the accumulated sick leave of such teacher is not thereby lost, but is transferred to such new or different district.

For purposes of this Section, "immediate family" shall include parents, spouse, brothers, sisters, children, grandparents, grandchildren, parents-in-law, brothers-in-law, sisters-in-law, and legal guardians.

(Source: P.A. 94-350, eff. 7-28-05; 95-151, eff. 8-14-07.)

Section 90. The State Mandates Act is amended by adding Section 8.32 as follows:

(30 ILCS 805/8.32 new)

Sec. 8.32. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 95th General Assembly.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Noland, **Senate Bill No. 2689**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 37; Nays 18.

The following voted in the affirmative:

Bivins	Frerichs	Kotowski	Schoenberg
Bond	Garrett	Lightford	Silverstein
Clayborne	Haine	Link	Steans
Collins	Halvorson	Maloney	Sullivan
Crotty	Harmon	Martinez	Trotter
Cullerton	Hendon	Meeks	Wilhelmi
DeLeo	Holmes	Munoz	Mr. President
Delgado	Hunter	Noland	
Demuzio	Jacobs	Raoul	
Forby	Koehler	Risinger	

The following voted in the negative:

Althoff	Hultgren	Murphy	Rutherford
Brady	Jones, J.	Pankau	Syverson
Burzynski	Lauzen	Peterson	Watson
Cronin	Luechtefeld	Radogno	
Dahl	Millner	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Delgado, **Senate Bill No. 2696** was recalled from the order of third reading to the order of second reading.

Senator Delgado offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2696

AMENDMENT NO. 1. Amend Senate Bill 2696 by replacing everything after the enacting clause with the following:

"Section 5. The Nurse Practice Act is amended by changing Section 65-5 as follows:

(225 ILCS 65/65-5) (was 225 ILCS 65/15-10)

(Section scheduled to be repealed on January 1, 2018)

Sec. 65-5. Qualifications for APN licensure.

(a) Each applicant who successfully meets the requirements of this Section shall be entitled to licensure as an advanced practice nurse.

(b) An applicant for licensure to practice as an advanced practice nurse must do each of the following:

(1) Submit a completed application and any fees as established by the Department.

(2) Hold a current license to practice as a registered professional nurse under this Act.

(3) Have successfully completed requirements to practice as, and holds a current, national certification as, a nurse midwife, clinical nurse specialist, nurse practitioner, or certified registered nurse anesthetist from the appropriate national certifying body as determined by rule of the Department.

(4) Have obtained a graduate degree appropriate for national certification in a

clinical advanced practice nursing specialty or a graduate degree or post-master's certificate from a graduate level program in a clinical advanced practice nursing specialty.

(5) Have not violated the provisions of this Act concerning the grounds for disciplinary action. The Department may take into consideration any felony conviction of the applicant, but such a conviction may not operate as an absolute bar to licensure.

(6) Submit to the criminal history records check required under Section 50-35 of this Act.

(b-5) A registered professional nurse seeking licensure as an advanced practice nurse in the category of certified registered nurse anesthetist who does not have a graduate degree as described in subsection (b) of this Section shall be qualified for licensure if that person:

(1) submits evidence of having successfully completed a nurse anesthesia program described in item (4) of subsection (b) of this Section prior to January 1, 1999;

(2) submits evidence of certification as a registered nurse anesthetist by an appropriate national certifying body; and

(3) has continually maintained active, up-to-date recertification status as a certified registered nurse anesthetist by an appropriate national recertifying body.

(b-10) The Department shall issue a certified registered nurse anesthetist license to an APN who (i) does not have a graduate degree, (ii) applies for licensure before July 1, 2018, and (iii) submits all of the following to the Department:

(1) His or her current State registered nurse license number.

(2) Proof of current national certification, which includes the completion of an examination from either of the following:

(A) the Council on Certification of the American Association of Nurse Anesthetists; or

(B) the Council on Recertification of the American Association of Nurse Anesthetists.

(3) Proof of the successful completion of a post-basic advanced practice formal education program in the area of nurse anesthesia prior to January 1, 1999.

(4) His or her complete work history for the 5-year period immediately preceding the date of his or her application.

(5) Verification of licensure as an advanced practice nurse from the state in which he or she was originally licensed, current state of licensure, and any other state in which he or she has been actively practicing as an advanced practice nurse within the 5-year period immediately preceding the date of his or her application. If applicable, this verification must state:

(A) the time during which he or she was licensed in each state, including the date of the original issuance of each license; and

(B) any disciplinary action taken or pending concerning any nursing license held, currently or in the past, by the applicant.

(6) The required fee.

(c) Those applicants seeking licensure in more than one advanced practice nursing specialty need not possess multiple graduate degrees. Applicants may be eligible for licenses for multiple advanced practice nurse licensure specialties, provided that the applicant (i) has met the requirements for at least one advanced practice nursing specialty under paragraphs (3) and (5) of subsection (a) of this Section, (ii) possesses an additional graduate education that results in a certificate for another clinical advanced practice nurse specialty and that meets the requirements for the national certification from the appropriate nursing specialty, and (iii) holds a current national certification from the appropriate national certifying body for that additional advanced practice nursing specialty.

(d) Any person who holds a valid license as an advanced practice nurse issued under this Act as this Act existed before the effective date of this amendatory Act of the 95th General Assembly shall be subject only to the advanced practice nurse license renewal requirements of this Act as this Act exists on and after the effective date of this amendatory Act of the 95th General Assembly upon the expiration of that license.

(Source: P.A. 94-348, eff. 7-28-05; 95-639, eff. 10-5-07.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Delgado, **Senate Bill No. 2696**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Schoenberg
Brady	Haine	Maloney	Silverstein
Burzynski	Halvorson	Martinez	Steans
Clayborne	Harmon	Meeks	Sullivan
Collins	Hendon	Millner	Syverson
Cronin	Holmes	Munoz	Trotter
Crotty	Hultgren	Murphy	Watson
Cullerton	Hunter	Noland	Wilhelmi
Dahl	Jacobs	Pankau	Mr. President
DeLeo	Jones, J.	Peterson	
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

At the hour of 9:28 o'clock p.m., Senator Martinez presiding.

SENATE BILL RECALLED

On motion of Senator Link, **Senate Bill No. 2707** was recalled from the order of third reading to the order of second reading.

Senate Floor Amendment No. 2 was held in the Committee on Rules.

Senator Link offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2707

AMENDMENT NO. _3_. Amend Senate Bill 2707, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Smoke Free Illinois Act is amended by changing Sections 10, 15, 35, 40, 45, and 50 as follows:

(410 ILCS 82/10)

Sec. 10. Definitions. In this Act:

"Bar" means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and that derives no more than 10% of its gross revenue from the sale of food consumed on the premises. "Bar" includes, but is not limited to, taverns, nightclubs, cocktail lounges, adult entertainment facilities, and cabarets.

"Department" means the Department of Public Health.

"Employee" means a person who is employed by an employer in consideration for direct or indirect monetary wages or profits or a person who volunteers his or her services for a non-profit entity.

"Employer" means a person, business, partnership, association, or corporation, including a municipal

corporation, trust, or non-profit entity, that employs the services of one or more individual persons.

"Enclosed area" means all space between a floor and a ceiling that is enclosed or partially enclosed with (i) solid walls or windows, exclusive of doorways, or (ii) solid walls with partitions and no windows, exclusive of doorways, that extend from the floor to the ceiling, including, without limitation, lobbies and corridors.

"Enclosed or partially enclosed sports arena" means any sports pavilion, stadium, gymnasium, health spa, boxing arena, swimming pool, roller rink, ice rink, bowling alley, or other similar place where members of the general public assemble to engage in physical exercise or participate in athletic competitions or recreational activities or to witness sports, cultural, recreational, or other events.

"Gaming equipment or supplies" means gaming equipment/supplies as defined in the Illinois Gaming Board Rules of the Illinois Administrative Code.

"Gaming facility" means an establishment utilized primarily for the purposes of gaming and where gaming equipment or supplies are operated for the purposes of accruing business revenue.

"Healthcare facility" means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including, but not limited to, hospitals, rehabilitation hospitals, weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. "Healthcare facility" includes all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within healthcare facilities.

"Place of employment" means any area under the control of a public or private employer that employees are required to enter, leave, or pass through during the course of employment, including, but not limited to entrances and exits to places of employment, including a minimum distance, as set forth in Section 70 of this Act, of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited; offices and work areas; restrooms; conference and classrooms; break rooms and cafeterias; and other common areas. A private residence or home-based business, unless used to provide licensed child care, foster care, adult care, or other similar social service care on the premises, is not a "place of employment", nor are enclosed laboratories, not open to the public, in an accredited university or government facility where the activity of smoking is exclusively conducted for the purpose of medical or scientific health-related research.

"Private club" means a not-for-profit association that (1) has been in active and continuous existence for at least 3 years prior to the effective date of this amendatory Act of the 95th General Assembly, whether incorporated or not, (2) is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, (3) is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and (4) only sells alcoholic beverages incidental to its operation. For purposes of this definition, "private club" means an organization that is managed by a board of directors, executive committee, or similar body chosen by the members at an annual meeting, has established bylaws, a constitution, or both to govern its activities, and has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. 501.

"Private residence" means the part of a structure used as a dwelling, including, without limitation: a private home, townhouse, condominium, apartment, mobile home, vacation home, cabin, or cottage. For the purposes of this definition, a hotel, motel, inn, resort, lodge, bed and breakfast or other similar public accommodation, hospital, nursing home, or assisted living facility shall not be considered a private residence.

"Public place" means that portion of any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the State of Illinois, or any other public entity and regardless of whether a fee is charged for admission, including a minimum distance, as set forth in Section 70 of this Act, of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. A "public place" does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises. A "public place" includes, but is not limited to, hospitals, restaurants, retail stores, offices, commercial establishments, elevators, indoor theaters, libraries, museums, concert halls, public conveyances, educational facilities, nursing homes, auditoriums, enclosed or partially enclosed sports arenas, meeting rooms, schools, exhibition halls, convention facilities, polling places, private clubs, gaming facilities, all government owned vehicles and facilities, including buildings and vehicles owned, leased, or operated by the State or State subcontract, healthcare facilities or clinics, enclosed shopping centers, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, public restrooms, waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, reception areas, and no less than 75% of the sleeping

quarters within a hotel, motel, resort, inn, lodge, bed and breakfast, or other similar public accommodation that are rented to guests, but excludes private residences.

"Restaurant" means (i) an eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, that gives or offers for sale food to the public, guests, or employees, and (ii) a kitchen or catering facility in which food is prepared on the premises for serving elsewhere. "Restaurant" includes a bar area within the restaurant.

"Retail tobacco store" means a retail establishment that derives more than 80% of its gross revenue from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes, and other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. "Retail tobacco store" includes an enclosed workplace that manufactures, imports, or distributes tobacco or tobacco products, when, as a necessary and integral part of the process of making, manufacturing, importing, or distributing a tobacco product for the eventual retail sale of that tobacco or tobacco product, tobacco is heated, burned, or smoked, or a lighted tobacco product is tested, provided that the involved business entity: (1) maintains a specially designated area or areas within the workplace for the purpose of the heating, burning, smoking, or lighting activities, and does not create a facility that permits smoking throughout; (2) satisfies the 80% requirement related to gross sales; and (3) delivers tobacco products to consumers, retail establishments, or other wholesale establishments as part of its business. "Retail tobacco store" does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food, or restaurant license.

"Smoke" or "smoking" means the carrying, smoking, burning, inhaling, or exhaling of any kind of lighted pipe, cigar, cigarette, hookah, weed, herbs, or any other lighted smoking equipment.

"State agency" has the meaning formerly ascribed to it in subsection (a) of Section 3 of the Illinois Purchasing Act (now repealed).

"Unit of local government" has the meaning ascribed to it in Section 1 of Article VII of the Illinois Constitution of 1970.

(Source: P.A. 95-17, eff. 1-1-08.)

(410 ILCS 82/15)

Sec. 15. Smoking in public places, places of employment, and governmental vehicles prohibited. No person shall smoke in a public place or in any place of employment or within 15 feet of any entrance to a public place or place of employment. No person may smoke in any vehicle owned, leased, or operated by the State or a political subdivision of the State. An owner shall reasonably assure that smoking ~~Smoking~~ is prohibited in indoor public places and workplaces unless specifically exempted by Section 35 of this Act.

(Source: P.A. 95-17, eff. 1-1-08.)

(410 ILCS 82/35)

Sec. 35. Exemptions. Notwithstanding any other provision of this Act, smoking is allowed in the following areas:

(1) Private residences or dwelling places, except when used as a child care, adult day care, or healthcare facility or any other home-based business open to the public.

(2) Retail tobacco stores as defined in Section 10 of this Act in operation prior to the effective date of this amendatory Act of the 95th General Assembly. The retail tobacco store shall annually file with the Department by January 31st an affidavit stating the percentage of its gross income during the prior calendar year that was derived from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes, or other smoking devices for smoking tobacco and related smoking accessories. Any retail tobacco store that begins operation after the effective date of this amendatory Act may only qualify for an exemption if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited.

(3) Private and semi-private rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed or to remain in a room where smoking is permitted and the smoke shall not infiltrate other areas of the nursing home.

(4) Hotel and motel sleeping rooms that are rented to guests and are designated as smoking rooms, provided that all smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into nonsmoking rooms or other areas where smoking is prohibited. Not more than 25% of the rooms rented to guests in a hotel or motel may be designated as rooms where smoking is allowed. The status of rooms as smoking or nonsmoking may not be changed, except to permanently add additional nonsmoking rooms.

(5) Enclosed laboratories that are excluded from the definition of "place of employment" in Section 10 of this Act.

(Source: P.A. 95-17, eff. 1-1-08.)

(410 ILCS 82/40)

Sec. 40. Enforcement; complaints.

(a) The Department, State-certified local public health departments, and local law enforcement agencies shall enforce the provisions of this Act through the issuance of citations and may assess fines pursuant to Section 45 of this Act.

(a-2) The citations issued pursuant to this Act shall conspicuously include the following:

(1) the name of the offense and its statutory reference;

(2) the nature and elements of the violation;

(3) the date and location of the violation;

(4) the name of the enforcing agency;

(5) the name of the violator;

(6) the amount of the imposed fine and the location where the violator can pay the fine without objection;

(7) the address and phone number of the enforcing agency where the violator can request a hearing before the Department to contest the imposition of the citation under the rules and procedures of the Administrative Procedure Act;

(8) the time period in which to pay the fine or to request a hearing to contest the imposition of the citation; and

(9) the verified signature of the person issuing the citation.

(a-3) One copy of the citation shall be provided to the violator, one copy shall be retained by the enforcing agency, and one copy shall be provided to the entity otherwise authorized by the enforcing agency to receive fines on their behalf.

(b) Any person may register a complaint with the Department, a State-certified local public health department, or a local law enforcement agency for a violation of this Act. The Department shall establish a telephone number that a person may call to register a complaint under this subsection (b).

(c) The Department shall afford a violator the opportunity to pay the fine without objection or to contest the citation in accordance with the Illinois Administrative Procedure Act, except that in case of a conflict between the Illinois Administrative Procedure Act and this Act, the provisions of this Act shall control.

(d) Upon receipt of a request for hearing to contest the imposition of a citation, the enforcing agency shall immediately forward a copy of the citation and notice of the request for hearing to the Department for initiation of a hearing conducted in accordance with the Illinois Administrative Procedure Act and the rules established thereto by the Department applicable to contested cases, except that in case of a conflict between the Illinois Administrative Procedure Act and this Act, the provisions of this Act shall control. Parties to the hearing shall be the enforcing agency and the violator.

The Department shall notify the violator in writing of the time, place, and location of the hearing. The hearing shall be conducted at the nearest regional office of the Department, or in a location contracted by the Department in the county where the citation was issued.

(e) Fines imposed under this Act may be collected in accordance with all methods otherwise available to the enforcing agency or the Department, except that there shall be no collection efforts during the pendency of the hearing before the Department.

(Source: P.A. 95-17, eff. 1-1-08.)

(410 ILCS 82/45)

Sec. 45. Violations.

(a) A person, corporation, partnership, association or other entity who violates Section 15 of this Act shall be fined pursuant to this Section. Each day that a violation occurs is a separate violation.

(b) A person who smokes in an area where smoking is prohibited under Section 15 of this Act shall be fined in an amount that is ~~not less than~~ $100 for a first offense and not more than $250 for a second or subsequent offense. A person who owns, operates, or otherwise controls a public place or place of employment that violates Section 15 of this Act shall be fined (i) not less than $250 for the first violation, (ii) not less than $500 for the second violation within one year after the first violation, and (iii) not less than $2,500 for each additional violation within one year after the first violation.

(c) A fine imposed under this Section shall be allocated as follows:

(1) one-half of the fine shall be distributed to the Department; and

(2) one-half of the fine shall be distributed to the enforcing agency.

(Source: P.A. 95-17, eff. 1-1-08.)

(410 ILCS 82/50)

Sec. 50. Injunctions. In addition to any other sanction or remedy, the ~~The~~ Department, a State-certified local public health department, local law enforcement agency, or any individual personally affected by repeated violations may institute, in a circuit court, an action to enjoin violations of this Act.

(Source: P.A. 95-17, eff. 1-1-08.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Watson offered the following amendment and moved its adoption:

AMENDMENT NO. 4 TO SENATE BILL 2707

AMENDMENT NO. 4. Amend Senate Bill 2707, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 3 as follows:

on page 9, immediately below line 22, by inserting the following:

"(6) That portion of a riverboat where gambling operations are conducted pursuant to the Riverboat Gambling Act. The exemption under this item (6) applies to each individual riverboat for 5 years after the effective date of this amendatory Act of the 95th General Assembly or until the state, other than Illinois, closest in proximity to that individual riverboat, as determined by the Illinois Gaming Board, bans smoking by law in similar facilities, whichever occurs first.".

And on that motion, a call of the roll was had resulting as follows:

Yeas 15; Nays 35; Present 1.

The following voted in the affirmative:

Brady	Holmes	Righter	Watson
Clayborne	Jones, J.	Risinger	Wilhelmi
Forby	Noland	Syverson	Mr. President
Haine	Peterson	Trotter	

The following voted in the negative:

Althoff	Delgado	Kotowski	Murphy
Bivins	Demuzio	Lauzen	Pankau
Bomke	Frerichs	Lightford	Radogno
Bond	Garrett	Link	Raoul
Burzynski	Halvorson	Luechtefeld	Rutherford
Collins	Harmon	Maloney	Schoenberg
Cronin	Hultgren	Martinez	Steans
Crotty	Hunter	Meeks	Sullivan
Dahl	Koehler	Millner	

The following voted present:

Hendon

The motion lost.

There being no further amendments, the foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Link, **Senate Bill No. 2707**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 35; Nays 16.

The following voted in the affirmative:

Bomke	Frerichs	Lightford	Raoul
Bond	Garrett	Link	Risinger
Collins	Halvorson	Maloney	Schoenberg
Cronin	Harmon	Martinez	Steans
Crotty	Hendon	Meeks	Sullivan
DeLeo	Hultgren	Murphy	Trotter
Delgado	Hunter	Noland	Wilhelmi
Demuzio	Koehler	Pankau	Mr. President
Dillard	Kotowski	Radogno	

The following voted in the negative:

Althoff	Dahl	Luechtefeld	Watson
Bivins	Forby	Peterson	
Brady	Holmes	Righter	
Burzynski	Jones, J.	Rutherford	
Clayborne	Lauzen	Syverson	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Wilhelmi, **Senate Bill No. 2718** was recalled from the order of third reading to the order of second reading.

Senator Wilhelmi offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2718

AMENDMENT NO. 1. Amend Senate Bill 2718 by replacing everything after the enacting clause with the following:

"Section 5. The Code of Criminal Procedure of 1963 is amended by adding Section 115-10.6 as follows:

(725 ILCS 5/115-10.6 new)

Sec. 115-10.6. Hearsay exception regarding forfeiture by wrongdoing.

(a) A statement is not rendered inadmissible by the hearsay rule if it is offered against a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.

(b) While intent to procure the unavailability of the witness is a necessary element for the introduction of the statement, it need not be the sole motivation behind the wrongdoing.

(c) The wrongdoing need not be based on conduct that can constitute a criminal offense. If the wrongdoing is based on conduct that constitutes a criminal offense, the conduct need not be the basis of the offense that is the subject of the trial at which the statement is being offered. If the wrongdoing is based on conduct that constitutes a criminal offense that is not the subject of the trial at which the statement is being offered, the conduct need not have ever been prosecuted.

(d) The proponent of the statement shall give the adverse party reasonable written notice of its intention to offer the statement and the substance of the particulars of the statement. For purposes of this Section, identifying the location of the statement or statements in tendered discovery shall be sufficient to satisfy the substance of the particulars of the statement.

(e) The admissibility of the statement shall be determined by the court at a hearing outside of the presence of a jury. At the hearing, the proponent of the statement bears the burden of proving the

wrongdoing by a preponderance of the evidence.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Wilhelmi, **Senate Bill No. 2718**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 56; Nays None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Schoenberg
Brady	Haine	Maloney	Steans
Burzynski	Halvorson	Martinez	Sullivan
Clayborne	Harmon	Meeks	Syverson
Collins	Hendon	Millner	Trotter
Cronin	Holmes	Munoz	Watson
Crotty	Hultgren	Murphy	Wilhelmi
Cullerton	Hunter	Noland	Mr. President
Dahl	Jacobs	Pankau	
DeLeo	Jones, J.	Peterson	
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Crotty, **Senate Bill No. 2721** was recalled from the order of third reading to the order of second reading.

Senator Crotty offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2721

AMENDMENT NO. __1__. Amend Senate Bill 2721 by replacing everything after the enacting clause with the following:

"Section 5. The Code of Civil Procedure is amended by changing Section 15-1701 as follows:

(735 ILCS 5/15-1701) (from Ch. 110, par. 15-1701)

Sec. 15-1701. Right to possession.

(a) General. The provisions of this Article shall govern the right to possession of the mortgaged real estate during foreclosure. Possession under this Article includes physical possession of the mortgaged real estate to the same extent to which the mortgagor, absent the foreclosure, would have been entitled to physical possession. For the purposes of Part 17, real estate is residential real estate only if it is residential real estate at the time the foreclosure is commenced.

(b) Pre-Judgment. Prior to the entry of a judgment of foreclosure:

(1) In the case of residential real estate, the mortgagor shall be entitled to possession of the real estate except if (i) the mortgagee shall object and show good cause, (ii) the mortgagee is so authorized by the terms of the mortgage or other written instrument, and (iii) the court is satisfied that there is a reasonable probability that the mortgagee will prevail on a final hearing of the cause, the court shall upon request place the mortgagee in possession. If the residential real estate consists of more than one dwelling unit, then for the purpose of this Part residential real estate shall mean only that dwelling unit or units occupied by persons described in clauses (i), (ii) and (iii) of Section 15-1219.

(2) In all other cases, if (i) the mortgagee is so authorized by the terms of the mortgage or other written instrument, and (ii) the court is satisfied that there is a reasonable probability that the mortgagee will prevail on a final hearing of the cause, the mortgagee shall upon request be placed in possession of the real estate, except that if the mortgagor shall object and show good cause, the court shall allow the mortgagor to remain in possession.

(c) Judgment Through 30 Days After Sale Confirmation. After the entry of a judgment of foreclosure and through the 30th day after a foreclosure sale is confirmed:

(1) Subsection (b) of Section 15-1701 shall be applicable, regardless of the provisions of the mortgage or other instrument, except that after a sale pursuant to the judgment the holder of the certificate of sale (or, if none, the purchaser at the sale) shall have the mortgagee's right to be placed in possession, with all rights and duties of a mortgagee in possession under this Article.

(2) Notwithstanding paragraph (1) of subsection (b) and paragraph (1) of subsection (c) of Section 15-1701, upon request of the mortgagee, a mortgagor of residential real estate shall not be allowed to remain in possession between the expiration of the redemption period and through the 30th day after sale confirmation unless (i) the mortgagor pays to the mortgagee or such holder or purchaser, whichever is applicable, monthly the lesser of the interest due under the mortgage calculated at the mortgage rate of interest applicable as if no default had occurred or the fair rental value of the real estate, or (ii) the mortgagor otherwise shows good cause. Any amounts paid by the mortgagor pursuant to this subsection shall be credited against the amounts due from the mortgagor.

(d) After 30 Days After Sale Confirmation. The holder of the certificate of sale or deed issued pursuant to that certificate or, if no certificate or deed was issued, the purchaser, except to the extent the holder or purchaser may consent otherwise, shall be entitled to possession of the mortgaged real estate, as of the date 30 days after the order confirming the sale is entered, against those parties to the foreclosure whose interests the court has ordered terminated, without further notice to any party, further order of the court, or resort to proceedings under any other statute other than this Article. This right to possession shall be limited by the provisions governing entering and enforcing orders of possession under subsection (g) of Section 15-1508. If the holder or purchaser determines that there are occupants of the mortgaged real estate who have not been made parties to the foreclosure and had their interests terminated therein, the holder or purchaser may bring a proceeding under subsection (h) of this Section or under Article 9 of this Code to terminate the rights of possession of any such occupants. The holder or purchaser shall not be entitled to proceed against any such occupant under Article 9 of this Code until after 30 days after the order confirming the sale is entered.

(e) Termination of Leases. A lease of all or any part of the mortgaged real estate shall not be terminated automatically solely by virtue of the entry into possession by (i) a mortgagee or receiver prior to the entry of an order confirming the sale, (ii) the holder of the certificate of sale, (iii) the holder of the deed issued pursuant to that certificate, or (iv) if no certificate or deed was issued, the purchaser at the sale.

(f) Other Statutes; Instruments. The provisions of this Article providing for possession of mortgaged real estate shall supersede any other inconsistent statutory provisions. In particular, and without limitation, whenever a receiver is sought to be appointed in any action in which a foreclosure is also pending, a receiver shall be appointed only in accordance with this Article. Except as may be authorized by this Article, no mortgage or other instrument may modify or supersede the provisions of this Article.

(g) Certain Leases. Leases of the mortgaged real estate entered into by a mortgagee in possession or a receiver and approved by the court in a foreclosure shall be binding on all parties, including the mortgagor after redemption, the purchaser at a sale pursuant to a judgment of foreclosure and any person acquiring an interest in the mortgaged real estate after entry of a judgment of foreclosure in accordance with Sections 15-1402 and 15-1403.

(h) Proceedings Against Certain Occupants.

(1) The mortgagee-in-possession of the mortgaged real estate under Section 15-1703, a receiver appointed under Section 15-1704, a holder of the certificate of sale or deed, or the purchaser

may, at any time during the pendency of the foreclosure and up to 90 days after the date of the order confirming the sale, file a supplemental petition for possession against a person not personally named as a party to the foreclosure. The supplemental petition for possession shall name each such occupant against whom possession is sought and state the facts upon which the claim for relief is premised.

(2) The petitioner shall serve upon each named occupant the petition, a notice of hearing on the petition, and, if any, a copy of the certificate of sale or deed. The proceeding for the termination of such occupant's possessory interest, including service of the notice of the hearing and the petition, shall in all respects comport with the requirements of Article 9 of this Code, except as otherwise specified in this Section. The hearing shall be no less than 21 days from the date of service of the notice.

(3) The supplemental petition shall be heard as part of the foreclosure proceeding and without the payment of additional filing fees. An order for possession obtained under this Section shall name each occupant whose interest has been terminated, shall recite that it is only effective as to the occupant so named and those holding under them, and shall be enforceable for no more than 90 days after its entry, except that the 90-day period may be extended to the extent and in the manner provided in Section 9-117 of Article 9 and except as provided in item (4) of this subsection (h).

(4) In a case of foreclosure where the tenant is current on his or her rent, or where timely written notice of to whom and where the rent is to be paid has not been provided to the tenant, or where the tenant has made good-faith efforts to make rental payments in order to keep current, any order of possession must allow the tenant to retain possession of the property covered in his or her rental agreement (i) for 120 days following the notice of the hearing on the supplemental petition that has been properly served upon the tenant, or (ii) through the duration of his or her lease, whichever is shorter. If the tenant has been given timely written notice of to whom and where the rent is to be paid, this ~~This~~ item (4) shall only apply if the tenant continues to pay his or her rent in full during the 120-day period or has made good-faith efforts to pay the rent in full during that period. No mortgagee-in-possession, receiver or holder of a certificate of sale or deed, or purchaser who fails to file a supplemental petition under this subsection during the pendency of a mortgage foreclosure shall file a forcible entry and detainer action against a tenant of the mortgaged real estate until 90 days after a notice of intent to file such action has been properly served upon the tenant.

(5) The court records relating to a supplemental petition for possession filed under this subsection (h) against a tenant who is entitled to notice under item (4) of this subsection (h), or relating to a forcible entry and detainer action brought against a tenant who would have lawful possession of the premises but for the foreclosure of a mortgage on the property, shall be ordered sealed and shall not be disclosed to any person, other than a law enforcement officer or any other representative of a governmental entity, except upon further order of the court.

(Source: P.A. 95-262, eff. 1-1-08.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Crotty, **Senate Bill No. 2721**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

Yeas 48; Nays 7.

The following voted in the affirmative:

Althoff	Forby	Lightford	Righter
Bivins	Frerichs	Link	Risinger
Bomke	Garrett	Luechtefeld	Schoenberg

Bond	Haine	Maloney	Steans
Burzynski	Halvorson	Martinez	Sullivan
Clayborne	Harmon	Meeks	Trotter
Collins	Hendon	Millner	Watson
Cronin	Holmes	Munoz	Wilhelmi
Crotty	Hunter	Noland	Mr. President
Cullerton	Jacobs	Pankau	
DeLeo	Jones, J.	Peterson	
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	

The following voted in the negative:

Brady	Dillard	Lauzen	Rutherford
Dahl	Hultgren	Murphy	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

READING CONSTITUTIONAL AMENDMENT A FIRST TIME

On motion of Senator Frerichs, Senate Joint Resolution Constitutional Amendment No. 92, having been printed, was taken up.

Senate Floor Amendment No. 1 was held in the Committee on Rules.

Senator Raoul offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE JOINT RESOLUTION CONSTITUTIONAL AMENDMENT 92

AMENDMENT NO. 2. Amend Senate Joint Resolution Constitutional Amendment 92 on page 1, by replacing lines 14 and 15 with "(a) ~~A tax measured by income shall be at a non-graduated rate.~~ At any one time there may be"; and

on page 1, in line 16, by replacing "such" with "income ~~such~~".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, Senate Joint Resolution Constitutional Amendment No. 92, as amended, was read in full a first time and ordered to a second reading.

At the hour of 10:13 o'clock p.m., the Chair announced that the Senate stand adjourned until Thursday, April 17, 2008, at 10:00 o'clock a.m.