

STATE OF ILLINOIS



HOUSE JOURNAL

HOUSE OF REPRESENTATIVES

NINETY-SIXTH GENERAL ASSEMBLY

59TH LEGISLATIVE DAY

REGULAR & PERFUNCTORY SESSION

THURSDAY, MAY 21, 2009

12:07 O'CLOCK P.M.

HOUSE OF REPRESENTATIVES
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59th Legislative Day

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The House met pursuant to adjournment.
 Representative Turner in the chair.
 Prayer by Pastor Wray Offermen, who is with St. Paul's Lutheran Church in Decatur, IL.
 Representative Jackson led the House in the Pledge of Allegiance.
 By direction of the Speaker, a roll call was taken to ascertain the attendance of Members, as follows:
 118 present. (ROLL CALL 1)

TEMPORARY COMMITTEE ASSIGNMENTS

Representative Schmitz replaced Representative Biggins in the Committee on Executive on May 21, 2009.

Representative Lang replaced Representative Acevedo in the Committee on Executive on May 21, 2009.

Representative Beaubien replaced Representative Schmitz in the Committee on Rules on May 21, 2009.

Representative Jefferson replaced Representative Turner in the Committee on Rules on May 21, 2009.

REPORT FROM THE COMMITTEE ON RULES

Representative Currie, Chairperson, from the Committee on Rules to which the following were referred, action taken on May 21, 2009, reported the same back with the following recommendations:

LEGISLATIVE MEASURES APPROVED FOR FLOOR CONSIDERATION:

That the Floor Amendment be reported "recommends be adopted":
 Amendment No. 2 to SENATE BILL 1333.

LEGISLATIVE MEASURES ASSIGNED TO COMMITTEE:

Counties & Townships: SENATE BILL 337.

The committee roll call vote on the foregoing Legislative Measures is as follows:
 4, Yeas; 0, Nays; 0, Answering Present.

Y Currie(D), Chairperson

Y Lang(D)

Y Jefferson(D) (replacing Turner)

A Black(R), Republican Spokesperson

Y Beaubien(R) (replacing Schmitz)

REPORT FROM STANDING COMMITTEE

Representative Burke, Chairperson, from the Committee on Executive to which the following were referred, action taken on May 21, 2009, reported the same back with the following recommendations:

That the bill be reported "do pass as amended" and be placed on the order of Second Reading-- Short Debate: SENATE BILLS 189, 235 and 268.

That the Motion be reported "recommends be adopted" and placed on the House Calendar:

Motion to concur with Senate Amendments numbered 1 and 3 to HOUSE BILL 255.

Motion to concur with Senate Amendments numbered 1 and 2 to HOUSE BILL 312.

Motion to concur with Senate Amendments numbered 1 and 2 to HOUSE BILL 2400.

The committee roll call vote on Senate Bills 189 and 235 is as follows:

7, Yeas; 4, Nays; 0, Answering Present.

Y Burke(D), Chairperson	Y Lyons(D), Vice-Chairperson
N Brady(R), Republican Spokesperson	Y Lang(D) (replacing Acevedo)
Y Arroyo(D)	Y Berrios(D)
N Schmitz(R) (replacing Biggins)	Y Rita(D)
N Sullivan(R)	N Tryon(R)
Y Turner(D)	

The committee roll call vote on Motion to Concur with Senate Amendments Numbered 1 and 3 to House Bill 255 is as follows:

10, Yeas; 0, Nays; 0, Answering Present.

Y Burke(D), Chairperson	Y Lyons(D), Vice-Chairperson
Y Brady(R), Republican Spokesperson	Y Lang(D) (replacing Acevedo)
Y Arroyo(D)	Y Berrios(D)
A Schmitz(R) (replacing Biggins)	Y Rita(D)
Y Sullivan(R)	Y Tryon(R)
Y Turner(D)	

The committee roll call vote on Motion to Concur with Senate Amendments Numbered 1 and 2 to House Bill 312, Motion to Concur with Senate Amendments Numbered 1 and 2 to House Bill 2400, and Senate Bill 268 is as follows:

11, Yeas; 0, Nays; 0, Answering Present.

Y Burke(D), Chairperson	Y Lyons(D), Vice-Chairperson
Y Brady(R), Republican Spokesperson	Y Lang(D) (replacing Acevedo)
Y Arroyo(D)	Y Berrios(D)
Y Schmitz(R) (replacing Biggins)	Y Rita(D)
Y Sullivan(R)	Y Tryon(R)
Y Turner(D)	

MOTIONS SUBMITTED

Representative Saviano submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendment No. 2 to HOUSE BILL 1293.

Representative Ryg submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendment No. 1 to HOUSE BILL 3649.

Representative Eddy submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendment No. 1 to HOUSE BILL 944.

Representative Bradley submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendment No. 3 to HOUSE BILL 182.

Representative Reitz submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendments numbered 1 and 2 to HOUSE BILL 3854.

Representative Leitch submitted the following written motion, which was placed on the Calendar on the order of Concurrence:

MOTION

I move to non-concur with Senate Amendment No. 1 to HOUSE BILL 3981.

Representative Ford submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendments numbered 1, 2 and 3 to HOUSE BILL 2537.

Representative Reitz submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendment No. 2 to HOUSE BILL 2440.

Representative Hernandez submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendments numbered 1 and 2 to HOUSE BILL 489.

Representative Miller submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendment No. 1 to HOUSE BILL 2448.

Representative Brauer submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendments numbered 1 and 2 to HOUSE BILL 853.

Representative Ford submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendment No. 1 to HOUSE BILL 436.

Representative Yarbrough submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendment No. 2 to HOUSE BILL 2542.

Representative Berrios submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendments numbered 1, 2 and 3 to HOUSE BILL 470.

Representative Walker submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendments numbered 1 and 2 to HOUSE BILL 2625.

Representative Biggins submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendments numbered 1 and 2 to HOUSE BILL 4099.

Representative Mautino submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendment No. 2 to HOUSE BILL 4021.

Representative Bill Mitchell submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendment No. 1 to HOUSE BILL 268.

Representative Connelly submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendments numbered 1 and 2 to HOUSE BILL 880.

Representative Tryon submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendment No. 1 to HOUSE BILL 1142.

Representative McAsey submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendment No. 1 to HOUSE BILL 3681.

Representative Wait submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendments numbered 1 and 3 to HOUSE BILL 797.

Representative Wait submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendment No. 1 to HOUSE BILL 800.

Representative Pritchard submitted the following written motion, which was placed on the order of Motions in Writing:

MOTION

Pursuant to Rule 60(b), I move to table SENATE BILL 2214.

Representative Zalewski submitted the following written motion, which was placed on the Calendar on the order of Motions in Writing:

MOTION

Pursuant to Rule 25, I move to suspend the posting requirements of Rule 21 in relation to SENATE BILL 337 to be heard in Counties & Townships.

Representative Soto submitted the following written motion, which was placed on the order of Motions in Writing:

MOTION

Pursuant to Rule 65, and having voted on the prevailing side, I move to reconsider the vote by which SENATE BILL 2180 failed in the House on May 21, 2009.

REQUEST FOR FISCAL NOTE

Representative Eddy requested that a Fiscal Note be supplied for SENATE BILL 226, as amended.

REQUEST FOR STATE MANDATES FISCAL NOTE

Representative Eddy requested that a State Mandates Fiscal Note be supplied for SENATE BILL 226, as amended.

REQUEST FOR HOME RULE NOTE

Representative Eddy requested that a Home Rule Note be supplied for SENATE BILL 226, as amended.

REQUEST FOR HOUSING AFFORDABILITY IMPACT NOTE

Representative Eddy requested that a Housing Affordability Impact Note be supplied for SENATE BILL 226, as amended.

FISCAL NOTE SUPPLIED

A Fiscal Note has been supplied for SENATE BILL 351.

MESSAGES FROM THE SENATE

A message from the Senate by
Ms. Rock, Secretary:

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

HOUSE BILL 3649

A bill for AN ACT concerning regulation.

Together with the attached amendment thereto (which amendment has been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 3649

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 3649 on page 1, line 9, by replacing "except that the" with "except that, subject to appropriation, the"; and on page 6, by replacing line 4 with the following:

"(s) The Department's implementation of this Section is subject to appropriations to the Department for that purpose.

(t) As used in this Section, the following terms have the".

The foregoing message from the Senate reporting Senate Amendment No. 1 to HOUSE BILL 3649 was placed on the Calendar on the order of Concurrence.

A message from the Senate by

Ms. Rock, Secretary:

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

HOUSE BILL 2675

A bill for AN ACT concerning education.

Together with the attached amendments thereto (which amendments have been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 2675

Senate Amendment No. 3 to HOUSE BILL NO. 2675

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 2675 on page 1, line 18, by replacing "~~Good Friday;~~" with "Good Friday;"

AMENDMENT NO. 3. Amend House Bill 2675, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by adding Section 18-12.5 and by changing Sections 21-1a and 21-10 as follows:

(105 ILCS 5/18-12.5 new)

Sec. 18-12.5. State aid claims during health emergencies. After consultation with a local health department, if a school district closes one or more recognized school buildings, but not all buildings, during a public health emergency, as determined by the State Board of Education in consultation with the Illinois Department of Public Health, the district may claim a full day of attendance for those days based on the average of the 3 school days of attendance immediately preceding the closure of the school building. Attendance for those days may be claimed only if the school building was scheduled to be in operation on those days. The partial or no day of attendance and the reasons thereof shall be certified, as prescribed by the State Board of Education, within a month after the closing by the school district superintendent to the regional superintendent of schools for forwarding to the State Superintendent of Education for approval.

This Section is applicable beginning April 1, 2009 and only if a school district closes a building or buildings, but not the entire district, which must be done in accordance with Section 18-12 of this Code.

(105 ILCS 5/21-1a) (from Ch. 122, par. 21-1a)

Sec. 21-1a. Tests required for certification and teacher preparation.

(a) After July 1, 1988, in addition to all other requirements, early childhood, elementary, special, high school, school service personnel, or, except as provided in Section 34-6, administrative certificates shall be issued to persons who have satisfactorily passed a test of basic skills, an assessment of professional teaching, and a test of subject matter knowledge, provided that a person who passed another state's test of basic skills as a condition of certification or of admission to a teacher preparation program shall not be required to pass this State's test of basic skills and subject matter knowledge. A person who holds a valid and comparable out of state certificate, however, is not required to take a test of basic skills and is not required to take a test of subject matter knowledge, provided that the person has successfully passed a test of subject matter knowledge in another state or territory of the United States that is directly related in content to the specific subject area of certification. The tests of basic skills and subject matter knowledge shall be the tests which from time to time are designated by the State Board of Education in consultation with the State Teacher Certification Board and may be tests prepared by an educational testing organization or tests designed by the State Board of Education in consultation with the State Teacher Certification Board. The areas to be covered by the test of basic skills shall include the basic skills of reading, writing, grammar and mathematics. The test of subject matter knowledge shall assess content knowledge in the specific subject field. The tests shall be designed to be racially neutral to assure that no person in taking the tests is thereby discriminated against on the basis of race, color, national origin or other factors unrelated to the person's ability to perform as a certificated employee. The score required to pass the tests of basic skills and subject matter knowledge shall be fixed by the State Board of Education in consultation with the State Teacher Certification Board. The tests shall be held not fewer than 3 times a year at such time and place as may be designated by the State Board of Education in consultation with the State Teacher Certification Board.

(b) Except as provided in Section 34-6, the provisions of subsection (a) of this Section shall apply equally in any school district subject to Article 34, provided that the State Board of Education shall determine which certificates issued under Sections 34-8.1 and 34-83 prior to July 1, 1988 are comparable to any early childhood certificate, elementary school certificate, special certificate, high school certificate, school service personnel certificate or administrative certificate issued under this Article as of July 1, 1988.

(c) A person who holds an early childhood, elementary, special, high school or school service personnel certificate issued under this Article on or at any time before July 1, 1988, including a person who has been issued any such certificate pursuant to Section 21-11.1 or in exchange for a comparable certificate theretofore issued under Section 34-8.1 or Section 34-83, shall not be required to take or pass the tests in order to thereafter have such certificate renewed.

(d) The State Board of Education in consultation with the State Teacher Certification Board shall conduct a pilot administration of the tests by administering the test to students completing teacher education programs in the 1986-87 school year for the purpose of determining the effect and impact of testing candidates for certification.

Beginning with the 2002-2003 academic year, a student may not enroll in a teacher preparation program at a recognized teacher training institution until he or she has passed the basic skills test.

Beginning on the effective date of this amendatory Act of the 94th General Assembly, prior to completing an approved teacher preparation program, a preservice education candidate must satisfactorily pass the test of subject matter knowledge in the discipline in which he or she will be certified to teach. The teacher preparation program may require passage of the test of subject matter knowledge at any time during the program, including prior to student teaching.

(e) The rules and regulations developed to implement the required test of basic skills and subject matter knowledge shall include the requirements of subsections (a), (b), and (c) and shall include specific regulations to govern test selection; test validation and determination of a passing score; administration of the tests; frequency of administration; applicant fees; frequency of applicants' taking the tests; the years for which a score is valid; and, waiving certain additional tests for additional certificates to individuals who have satisfactorily passed the test of basic skills and subject matter knowledge as required in subsection (a). The State Board of Education shall provide, by rule, specific policies that assure uniformity in the difficulty level of each form of the basic skills test and each subject matter knowledge test from test-to-test and year-to-year. The State Board of Education shall also set a passing score for the tests.

(f) The State Teacher Certification Board may issue a nonrenewable temporary certificate between July 1, 1988 and August 31, 1988 to individuals who have taken the tests of basic skills and subject matter knowledge prescribed by this Section but have not received such test scores by August 31, 1988. Such

temporary certificates shall expire on December 31, 1988.

(g) Beginning February 15, 2000, the State Board of Education, in consultation with the State Teacher Certification Board, shall implement and administer a new system of certification for teachers in the State of Illinois. The State Board of Education, in consultation with the State Teacher Certification Board, shall design and implement a system of examinations and various other criteria which shall be required prior to the issuance of Initial Teaching Certificates and Standard Teaching Certificates. These examinations and indicators shall be based on national and State professional teaching standards, as determined by the State Board of Education, in consultation with the State Teacher Certification Board. The State Board of Education may adopt any and all regulations necessary to implement and administer this Section.

(h) The State Board of Education shall report to the Illinois General Assembly and the Governor with recommendations for further changes and improvements to the teacher certification system no later than July 1, 1999 and on an annual basis until July 1, 2001.

(Source: P.A. 93-679, eff. 6-30-04; 94-208, eff. 7-14-05.)

(105 ILCS 5/21-10) (from Ch. 122, par. 21-10)

Sec. 21-10. Provisional certificate.

(A) Until July 1, 1972, the State Teacher Certification Board may issue a provisional certificate valid for teaching in elementary, high school or special subject fields subject to the following conditions:

A provisional certificate may be issued to a person who presents certified evidence of having earned a bachelor's degree from a recognized institution of higher learning. The academic and professional courses offered as a basis of the provisional certificate shall be courses approved by the State Board of Education in consultation with the State Teacher Certification Board.

A certificate earned under this plan may be renewed at the end of each two-year period upon evidence filed with the State Teacher Certification Board that the holder has earned 8 semester hours of credit within the period; provided the requirements for the certificate of the same type issued for the teaching position for which the teacher is employed shall be met by the end of the second renewal period. A second provisional certificate shall not be issued. The credits so earned must be approved by the State Board of Education in consultation with the State Teacher Certification Board and must meet the general pattern for a similar type of certificate issued on the basis of credit. No more than 4 semester hours shall be chosen from elective subjects.

(B) After July 1, 1972, the State Teacher Certification Board may issue a provisional certificate valid for teaching in early childhood, elementary, high school or special subject fields, or for providing service as school service personnel or for administering schools subject to the following conditions: A provisional certificate may be issued to a person who meets the requirements for a regular teaching, school service personnel or administrative certificate in another State and who presents certified evidence of having earned a bachelor's degree from a recognized institution of higher learning. The academic and professional courses offered as a basis of the provisional certificate shall be courses approved by the State Board of Education in consultation with the State Teacher Certification Board. A certificate earned under this plan is valid for a period of 2 years and shall not be renewed; ~~however, the individual to whom this certificate is issued shall have passed or shall pass the examinations set forth by the State Board of Education within 9 months of the date of issuance of the provisional certificate. Failure to pass the tests, required in Section 21-1a, shall result in the cancellation of the provisional certificate.~~

(C) The State Teacher Certification Board may also issue a provisional vocational certificate and a temporary provisional vocational certificate.

(1) The requirements for a provisional vocational certificate shall be determined by the State Board of Education in consultation with the State Teacher Certification Board; provided, the following minimum requirements are met: (a) after July 1, 1972, at least 30 semester hours of credit from a recognized institution of higher learning; and (b) after July 1, 1974, at least 60 semester hours of credit from a recognized institution of higher learning.

(2) The requirements for a temporary provisional vocational certificate shall be determined by the State Board of Education in consultation with the State Teacher Certification Board; provided, the following minimum requirements are met: (a) after July 1, 1973, at least 4,000 hours of work experience in the skill to be certified for teaching; and (b) after July 1, 1975, at least 8,000 hours of work experience in the skill to be certified for teaching. Any certificate issued under the provisions of this paragraph shall expire on June 30 following the date of issue. Renewals may be granted on a yearly basis, but shall not be granted to any person who does not file with the State Teacher Certification Board a transcript showing at least 3 semester hours of credit earned during the previous year in a recognized institution of learning. No such certificate shall be issued except upon certification by the employing

board, subject to the approval of the regional superintendent of schools, that no qualified teacher holding a regular certificate or a provisional vocational certificate is available and that actual circumstances and need require such issuance.

The courses or work experience offered as a basis for the issuance of the provisional vocational certificate or the temporary provisional vocational certificate shall be approved by the State Board of Education in consultation with the State Teacher Certification Board.

(D) Until July 1, 1972, the State Teacher Certification Board may also issue a provisional foreign language certificate valid for 4 years for teaching the foreign language named therein in all grades of the common schools and shall be issued to persons who have graduated from a recognized institution of higher learning with not fewer than 120 semester hours of credit and who have met other requirements as determined by the State Board of Education in consultation with the State Teacher Certification Board. If the holder of a provisional foreign language certificate is not a citizen of the United States within 6 years of the date of issuance of the original certificate, such certificate shall be suspended by the regional superintendent of schools of the region in which the holder is engaged to teach and shall not be reinstated until the holder is a citizen of the United States.

(E) Notwithstanding anything in this Act to the contrary, the State Teacher Certification Board shall issue part-time provisional certificates to eligible individuals who are professionals and craftsmen.

The requirements for a part-time provisional teachers certificate shall be determined by the State Board of Education in consultation with the State Teacher Certification Board, provided the following minimum requirements are met: 60 semester hours of credit from a recognized institution of higher learning or 4000 hours of work experience in the skill to be certified for teaching.

A part-time provisional certificate may be issued for teaching no more than 2 courses of study for grades 6 through 12.

A part-time provisional teachers certificate shall be valid for 2 years and may be renewed at the end of each 2 year period.

(Source: P.A. 90-548, eff. 1-1-98; 91-357, eff. 7-29-99.)

Section 99. Effective date. This Act takes effect July 1, 2009."

The foregoing message from the Senate reporting Senate Amendments numbered 1 and 3 to HOUSE BILL 2675 was placed on the Calendar on the order of Concurrence.

A message from the Senate by

Ms. Rock, Secretary:

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

HOUSE BILL 2557

A bill for AN ACT concerning public employee benefits.

Together with the attached amendments thereto (which amendments have been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 2557

Senate Amendment No. 3 to HOUSE BILL NO. 2557

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 2557, on page 3, line 9, by replacing "1-108.5," with "1A-108.5".

AMENDMENT NO. 3. Amend House Bill 2557, on page 1, line 5, by replacing "Section 1A-108.5" with "Sections 1-113.20 and 1A-108.5"; and on page 1, immediately below line 5, by inserting the following:

"(40 ILCS 5/1-113.20 new)

Sec. 1-113.20. Investment strategies; explicit and implicit costs. Every pension fund, retirement system, and investment board created under this Code, except those whose investments are restricted by Section

1-113.2 of this Code, shall instruct the fund's, system's, or board's investment advisors to utilize investment strategies designed to ensure that all securities transactions are executed in such a manner that the total explicit and implicit costs and total proceeds in every transaction are the most favorable under the circumstances."

The foregoing message from the Senate reporting Senate Amendments numbered 1 and 3 to HOUSE BILL 2557 was placed on the Calendar on the order of Concurrence.

A message from the Senate by
Ms. Rock, Secretary:

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

HOUSE BILL 2448

A bill for AN ACT concerning education.

Together with the attached amendment thereto (which amendment has been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 2448

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 2448 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by adding Section 10-29 as follows:

(105 ILCS 5/10-29 new)

Sec. 10-29. Remote educational programs.

(a) For purposes of this Section, "remote educational program" means an educational program delivered to students in the home or other location outside of a school building that meets all of the following criteria:

(1) A student may participate in the program only after the school district, pursuant to adopted school board policy, and a person authorized to enroll the student under Section 10-20.12b of this Code determine that a remote educational program will best serve the student's individual learning needs. The adopted school board policy shall include, but not be limited to, all of the following:

(A) Criteria for determining that a remote educational program will best serve a student's individual learning needs. The criteria must include consideration of, at a minimum, a student's prior attendance, disciplinary record, and academic history.

(B) Any limitations on the number of students or grade levels that may participate in a remote educational program.

(C) A description of the process that the school district will use to approve participation in the remote educational program. The process must include without limitation a requirement that, for any student who qualifies to receive services pursuant to the federal Individuals with Disabilities Education Improvement Act of 2004, the student's participation in a remote educational program receive prior approval from the student's individualized education program team.

(D) A description of the process the school district will use to develop and approve a written remote educational plan that meets the requirements of subdivision (5) of this subsection (a).

(E) A description of the system the school district will establish to calculate the number of clock hours a student is participating in instruction in accordance with the remote educational program.

(F) A description of the process for renewing a remote educational program at the expiration of its term.

(G) Such other terms and provisions as the school district deems necessary to provide for the establishment and delivery of a remote educational program.

(2) The school district has determined that the remote educational program's curriculum is aligned to State learning standards and that the program offers instruction and educational experiences consistent with those given to students at the same grade level in the district.

(3) The remote educational program is delivered by instructors that meet the following qualifications:

(A) they are certificated under Article 21 of this Code;

(B) they meet applicable highly qualified criteria under the federal No Child Left Behind Act of

2001; and

(C) they have responsibility for all of the following elements of the program: planning instruction, diagnosing learning needs, prescribing content delivery through class activities, assessing learning, reporting outcomes to administrators and parents and guardians, and evaluating the effects of instruction.

(4) During the period of the calendar year included within the regular school term of the school district, participation in a remote educational program may be claimed for general State aid purposes under Section 18-8.05 of this Code only on days of pupil attendance or institute days included within the school district's calendar established pursuant to Section 10-19 of this Code. Outside of the regular school term of the district, the remote educational program may be offered as part of any summer school program authorized by this Code.

(5) Each student participating in a remote educational program must have a written remote educational plan that has been approved by the school district and a person authorized to enroll the student under Section 10-20.12b of this Code. The school district and a person authorized to enroll the student under Section 10-20.12b of this Code must approve any amendment to a remote educational plan. The remote educational plan must include, but is not limited to, all of the following:

(A) Specific achievement goals for the student aligned to State learning standards.

(B) A description of all assessments that will be used to measure student progress, which description shall indicate the assessments that will be administered at an attendance center within the school district.

(C) A description of the progress reports that will be provided to the school district and the person or persons authorized to enroll the student under Section 10-20.12b of this Code.

(D) Expectations, processes, and schedules for interaction between a teacher and student.

(E) A description of the specific responsibilities of the student's family and the school district with respect to equipment, materials, phone and Internet service, and any other requirements applicable to the home or other location outside of a school building necessary for the delivery of the remote educational program.

(F) If applicable, a description of how the remote educational program will be delivered in a manner consistent with the student's individualized education program required by Section 614(d) of the federal Individuals with Disabilities Education Improvement Act of 2004 or plan to ensure compliance with Section 504 of the federal Rehabilitation Act of 1973.

(G) A description of the procedures and opportunities for participation in academic and extra-curricular activities and programs within the school district.

(H) The identification of a parent, guardian, or other responsible adult who will provide direct supervision of the program. The plan must include an acknowledgment by the parent, guardian, or other responsible adult that he or she may engage only in non-teaching duties not requiring instructional judgment or the evaluation of a student. The plan shall designate the parent, guardian, or other responsible adult as non-teaching personnel or volunteer personnel under subsection (a) of Section 10-22.34 of this Code.

(I) The identification of a school district administrator who will oversee the remote educational program on behalf of the school district and who may be contacted by the student's parents with respect to any issues or concerns with the program.

(J) The term of the student's participation in the remote educational program, which may not extend for longer than 12 months, unless the term is renewed by the district in accordance with subdivision (7) of this subsection (a).

(K) A description of the specific location or locations in which the program will be delivered. If the remote educational program is to be delivered to a student in any location other than the student's home, the plan must include a written determination by the school district that the location will provide a learning environment appropriate for the delivery of the program. The location or locations in which the program will be delivered shall be deemed a long distance teaching reception area under subsection (a) of Section 10-22.34 of this Code.

(L) Certification by the school district that the plan meets all other requirements of this Section.

(6) Students participating in a remote educational program must be enrolled in a school district attendance center pursuant to the school district's enrollment policy or policies. A student participating in a remote educational program must be tested as part of all assessments administered by the school district pursuant to Section 2-3.64 of this Code at the attendance center in which the student is enrolled and in accordance with the attendance center's assessment policies and schedule. The student must be included within all adequate yearly progress and other accountability determinations for the school district and

attendance center under State and federal law.

(7) The term of a student's participation in a remote educational program may not extend for longer than 12 months, unless the term is renewed by the school district. The district may only renew a student's participation in a remote educational program following an evaluation of the student's progress in the program, a determination that the student's continuation in the program will best serve the student's individual learning needs, and an amendment to the student's written remote educational plan addressing any changes for the upcoming term of the program.

(b) A school district may, by resolution of its school board, establish a remote educational program.

(c) Days of attendance by students in a remote educational program meeting the requirements of this Section may be claimed by the school district and shall be counted as school work for general State aid purposes in accordance with and subject to the limitations of Section 18-8.05 of this Code.

(d) The impact of remote educational programs on wages, hours, and terms and conditions of employment of educational employees within the school district shall be subject to local collective bargaining agreements.

(e) The use of a home or other location outside of a school building for a remote educational program shall not cause the home or other location to be deemed a public school facility.

(f) A remote educational program may be used, but is not required, for instruction delivered to a student in the home or other location outside of a school building that is not claimed for general State aid purposes under Section 18-8.05 of this Code.

(g) School districts that, pursuant to this Section, adopt a policy for a remote educational program must submit to the State Board of Education a copy of the policy and any amendments thereto, as well as data on student participation in a format specified by the State Board of Education. The State Board of Education may perform or contract with an outside entity to perform an evaluation of remote educational programs in this State.

(h) The State Board of Education may adopt any rules necessary to ensure compliance by remote educational programs with the requirements of this Section and other applicable legal requirements.

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

The foregoing message from the Senate reporting Senate Amendment No. 1 to HOUSE BILL 2448 was placed on the Calendar on the order of Concurrence.

A message from the Senate by

Ms. Rock, Secretary:

Mr. Speaker -- I am directed to inform the House of Representatives that the Senate has concurred with the House in the passage of bills of the following titles to-wit:

HOUSE BILL NO. 2433

A bill for AN ACT concerning transportation.

HOUSE BILL NO. 2507

A bill for AN ACT concerning education.

HOUSE BILL NO. 2530

A bill for AN ACT concerning education.

HOUSE BILL NO. 2626

A bill for AN ACT concerning utilities.

HOUSE BILL NO. 4048

A bill for AN ACT concerning transportation.

HOUSE BILL NO. 4078

A bill for AN ACT concerning criminal law.

HOUSE BILL NO. 4251

A bill for AN ACT concerning utilities.

Passed by the Senate, May 21, 2009.

Jillayne Rock, Secretary of the Senate

A message from the Senate by

Ms. Rock, Secretary:

Mr. Speaker -- I am directed to inform the House of Representatives that the Senate has concurred with the House in the passage of bills of the following titles to-wit:

HOUSE BILL NO. 50

A bill for AN ACT concerning government.

HOUSE BILL NO. 153

A bill for AN ACT concerning civil law.

HOUSE BILL NO. 621

A bill for AN ACT concerning local government.

HOUSE BILL NO. 762

A bill for AN ACT concerning professional regulation.

HOUSE BILL NO. 2435

A bill for AN ACT concerning the Illinois State Toll Highway Authority.

Passed by the Senate, May 21, 2009.

Jillayne Rock, Secretary of the Senate

A message from the Senate by

Ms. Rock, Secretary:

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

HOUSE BILL 3795

A bill for AN ACT concerning criminal law.

Together with the attached amendment thereto (which amendment has been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 2 to HOUSE BILL NO. 3795

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 2. Amend House Bill 3795 on page 1, by replacing line 7 with the following:

"Sec. 15. Authorization.

(a) The Chief Judge of each judicial"; and

on page 1, by inserting immediately below line 9 the following:

"(b) Whenever the county boards of 2 or more counties within the same judicial circuit shall determine that a single drug court program would best serve those counties, the county board of each such county shall adopt a resolution to the effect that there shall be a single drug court program serving those counties, and shall provide a copy of the resolution to the Chief Judge of the judicial circuit. Upon receipt of those resolutions, the Chief Judge shall establish or, in the case of an existing drug court program, re-organize a single drug court program to serve those counties.

(c) Upon petition of the county board by the State's Attorney, the court may, for good cause shown of financial hardship or lack of necessary resources, enter an order delaying the implementation of the requirements of subsection (a) of this Section for an individual county, for a period not to exceed 2 years."

The foregoing message from the Senate reporting Senate Amendment No. 2 to HOUSE BILL 3795 was placed on the Calendar on the order of Concurrence.

A message from the Senate by

Ms. Rock, Secretary:

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

HOUSE BILL 3785

A bill for AN ACT concerning local government.

Together with the attached amendment thereto (which amendment has been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 3785
Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 3785 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by changing Section 11-13-1 as follows:
(65 ILCS 5/11-13-1) (from Ch. 24, par. 11-13-1)

Sec. 11-13-1. To the end that adequate light, pure air, and safety from fire and other dangers may be secured, that the taxable value of land and buildings throughout the municipality may be conserved, that congestion in the public streets may be lessened or avoided, that the hazards to persons and damage to property resulting from the accumulation or runoff of storm or flood waters may be lessened or avoided, and that the public health, safety, comfort, morals, and welfare may otherwise be promoted, and to insure and facilitate the preservation of sites, areas, and structures of historical, architectural and aesthetic importance; the corporate authorities in each municipality have the following powers:

- (1) to regulate and limit the height and bulk of buildings hereafter to be erected;
- (2) to establish, regulate and limit, subject to the provisions of Division 14 of this Article 11, the building or set-back lines on or along any street, traffic-way, drive, parkway or storm or floodwater runoff channel or basin;
- (3) to regulate and limit the intensity of the use of lot areas, and to regulate and determine the area of open spaces, within and surrounding such buildings;
- (4) to classify, regulate and restrict the location of trades and industries and the location of buildings designed for specified industrial, business, residential, and other uses;
- (5) to divide the entire municipality into districts of such number, shape, area, and of such different classes (according to use of land and buildings, height and bulk of buildings, intensity of the use of lot area, area of open spaces, or other classification) as may be deemed best suited to carry out the purposes of this Division 13;
- (6) to fix standards to which buildings or structures therein shall conform;
- (7) to prohibit uses, buildings, or structures incompatible with the character of such districts;
- (8) to prevent additions to and alteration or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations lawfully imposed under this Division 13;
- (9) to classify, to regulate and restrict the use of property on the basis of family relationship, which family relationship may be defined as one or more persons each related to the other by blood, marriage or adoption and maintaining a common household;
- (10) to regulate or forbid any structure or activity which may hinder access to solar energy necessary for the proper functioning of a solar energy system, as defined in Section 1.2 of the Comprehensive Solar Energy Act of 1977;
- (11) to require the creation and preservation of affordable housing, including the power to provide increased density or other zoning incentives to developers who are creating, establishing, or preserving affordable housing; and
- (12) to establish local standards solely for the review of the exterior design of buildings and structures, excluding utility facilities and outdoor off-premises advertising signs, and designate a board or commission to implement the review process; except that, other than reasonable restrictions as to size, no home rule or non-home rule municipality may prohibit the display of outdoor political campaign signs on residential property during any period of time, the regulation of these signs being a power and function of the State and, therefor, this item (12) is a denial and limitation of concurrent home rule powers and functions under subsection (i) of Section 6 of Article VII of the Illinois Constitution.

The powers enumerated may be exercised within the corporate limits or within contiguous territory not more than one and one-half miles beyond the corporate limits and not included within any municipality. However, if any municipality adopts a plan pursuant to Division 12 of Article 11 which plan includes in its provisions a provision that the plan applies to such contiguous territory not more than one and one-half

miles beyond the corporate limits and not included in any municipality, then no other municipality shall adopt a plan that shall apply to any territory included within the territory provided in the plan first so adopted by another municipality. No municipality shall exercise any power set forth in this Division 13 outside the corporate limits thereof, if the county in which such municipality is situated has adopted "An Act in relation to county zoning", approved June 12, 1935, as amended. Nothing in this Section prevents a municipality of more than 112,000 population located in a county of less than 185,000 population that has adopted a zoning ordinance and the county that adopted the zoning ordinance from entering into an intergovernmental agreement that allows the municipality to exercise its zoning powers beyond its territorial limits; provided, however, that the intergovernmental agreement must be limited to the territory within the municipality's planning jurisdiction as defined by law or any existing boundary agreement. The county and the municipality must amend their individual zoning maps in the same manner as other zoning changes are incorporated into revised zoning maps. No such intergovernmental agreement may authorize a municipality to exercise its zoning powers, other than powers that a county may exercise under Section 5-12001 of the Counties Code, with respect to land used for agricultural purposes. This amendatory Act of the 92nd General Assembly is declarative of existing law. No municipality may exercise any power set forth in this Division 13 outside the corporate limits of the municipality with respect to a facility of a telecommunications carrier defined in Section 5-12001.1 of the Counties Code.

Notwithstanding any other provision of law to the contrary, at least 30 days prior to commencing construction of a new telecommunications facility within 1.5 miles of a municipality, the telecommunications carrier constructing the facility shall provide written notice of its intent to construct the facility. The notice shall include, but not be limited to, the following information: (i) the name, address, and telephone number of the company responsible for the construction of the facility and (ii) the address and telephone number of the governmental entity that issued the building permit for the telecommunications facility. The notice shall be provided in person, by overnight private courier, or by certified mail to all owners of property within 250 feet of the parcel in which the telecommunications carrier has a leasehold or ownership interest. For the purposes of this notice requirement, "owners" means those persons or entities identified from the authentic tax records of the county in which the telecommunications facility is to be located. If, after a bona fide effort by the telecommunications carrier to determine the owner and his or her address, the owner of the property on whom the notice must be served cannot be found at the owner's last known address, or if the mailed notice is returned because the owner cannot be found at the last known address, the notice requirement of this paragraph is deemed satisfied. For the purposes of this paragraph, "facility" means that term as it is defined in Section 5-12001.1 of the Counties Code.

If a municipality adopts a zoning plan covering an area outside its corporate limits, the plan adopted shall be reasonable with respect to the area outside the corporate limits so that future development will not be hindered or impaired; it is reasonable for a municipality to regulate or prohibit the extraction of sand, gravel, or limestone even when those activities are related to an agricultural purpose. If all or any part of the area outside the corporate limits of a municipality which has been zoned in accordance with the provisions of this Division 13 is annexed to another municipality or municipalities, the annexing unit shall thereafter exercise all zoning powers and regulations over the annexed area.

In all ordinances passed under the authority of this Division 13, due allowance shall be made for existing conditions, the conservation of property values, the direction of building development to the best advantage of the entire municipality and the uses to which the property is devoted at the time of the enactment of such an ordinance. The powers conferred by this Division 13 shall not be exercised so as to deprive the owner of any existing property of its use or maintenance for the purpose to which it is then lawfully devoted, but provisions may be made for the gradual elimination of uses, buildings and structures which are incompatible with the character of the districts in which they are made or located, including, without being limited thereto, provisions (a) for the elimination of such uses of unimproved lands or lot areas when the existing rights of the persons in possession thereof are terminated or when the uses to which they are devoted are discontinued; (b) for the elimination of uses to which such buildings and structures are devoted, if they are adaptable for permitted uses; and (c) for the elimination of such buildings and structures when they are destroyed or damaged in major part, or when they have reached the age fixed by the corporate authorities of the municipality as the normal useful life of such buildings or structures.

This amendatory Act of 1971 does not apply to any municipality which is a home rule unit, except as provided in item (12).

(Source: P.A. 94-303, eff. 7-21-05; 95-475, eff. 1-1-08.)".

The foregoing message from the Senate reporting Senate Amendment No. 1 to HOUSE BILL 3785 was placed on the Calendar on the order of Concurrence.

A message from the Senate by

Ms. Rock, Secretary:

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

HOUSE BILL 3714

A bill for AN ACT concerning domestic violence.

Together with the attached amendment thereto (which amendment has been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 3714

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 3714 by replacing the title with the following:

"AN ACT concerning criminal law."; and

by replacing everything after the enacting clause with the following:

"Section 5. The Unified Code of Corrections is amended by changing Section 5-6-3 as follows:

(730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)

(Text of Section before amendment by P.A. 95-983)

Sec. 5-6-3. Conditions of Probation and of Conditional Discharge.

(a) The conditions of probation and of conditional discharge shall be that the person:

(1) not violate any criminal statute of any jurisdiction;

(2) report to or appear in person before such person or agency as directed by the court;

(3) refrain from possessing a firearm or other dangerous weapon where the offense is a felony or, if a misdemeanor, the offense involved the intentional or knowing infliction of bodily harm or threat of bodily harm;

(4) not leave the State without the consent of the court or, in circumstances in which the reason for the absence is of such an emergency nature that prior consent by the court is not possible, without the prior notification and approval of the person's probation officer. Transfer of a person's probation or conditional discharge supervision to another state is subject to acceptance by the other state pursuant to the Interstate Compact for Adult Offender Supervision;

(5) permit the probation officer to visit him at his home or elsewhere to the extent necessary to discharge his duties;

(6) perform no less than 30 hours of community service and not more than 120 hours of community service, if community service is available in the jurisdiction and is funded and approved by the county board where the offense was committed, where the offense was related to or in furtherance of the criminal activities of an organized gang and was motivated by the offender's membership in or allegiance to an organized gang. The community service shall include, but 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 within the municipality or county in which the violation occurred. When possible and reasonable, the community service should be performed in the offender's neighborhood. For purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act;

(7) if he or she is at least 17 years of age and has been sentenced to probation or conditional discharge for a misdemeanor or felony in a county of 3,000,000 or more inhabitants and has not been previously convicted of a misdemeanor or felony, may be required by the sentencing court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program approved by the court. The person on probation or conditional discharge must attend a public institution of education to obtain the educational or vocational training required by this clause (7). The court shall revoke the probation or conditional discharge of a person who wilfully fails to comply with this clause (7). The person on probation or conditional discharge shall be required to pay for the cost of the

educational courses or GED test, if a fee is charged for those courses or test. The court shall resentence the offender whose probation or conditional discharge has been revoked as provided in Section 5-6-4. This clause (7) does not apply to a person who has a high school diploma or has successfully passed the GED test. This clause (7) does not apply to a person who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program;

(8) if convicted of possession of a substance prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act after a previous conviction or disposition of supervision for possession of a substance prohibited by the Cannabis Control Act or Illinois Controlled Substances Act or after a sentence of probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act and upon a finding by the court that the person is addicted, undergo treatment at a substance abuse program approved by the court;

(8.5) if convicted of a felony sex offense as defined in the Sex Offender Management Board Act, the person shall undergo and successfully complete sex offender treatment by a treatment provider approved by the Board and conducted in conformance with the standards developed under the Sex Offender Management Board Act;

(8.6) if convicted of a sex offense as defined in the Sex Offender Management Board Act, refrain from residing at the same address or in the same condominium unit or apartment unit or in the same condominium complex or apartment complex with another person he or she knows or reasonably should know is a convicted sex offender or has been placed on supervision for a sex offense; the provisions of this paragraph do not apply to a person convicted of a sex offense who is placed in a Department of Corrections licensed transitional housing facility for sex offenders;

(8.7) if convicted for an offense committed on or after the effective date of this amendatory Act of the 95th General Assembly that would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961, refrain from communicating with or contacting, by means of the Internet, a person who is not related to the accused and whom the accused reasonably believes to be under 18 years of age; for purposes of this paragraph (8.7), "Internet" has the meaning ascribed to it in Section 16J-5 of the Criminal Code of 1961; and a person is not related to the accused if the person is not: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused;

(9) if convicted of a felony, physically surrender at a time and place designated by the court, his or her Firearm Owner's Identification Card and any and all firearms in his or her possession; and

(10) if convicted of a sex offense as defined in subsection (a-5) of Section 3-1-2 of this Code, unless the offender is a parent or guardian of the person under 18 years of age present in the home and no non-familial minors are present, not participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, being employed as a department store Santa Claus, or wearing an Easter Bunny costume on or preceding Easter.

(b) The Court may in addition to other reasonable conditions relating to the nature of the offense or the rehabilitation of the defendant as determined for each defendant in the proper discretion of the Court require that the person:

- (1) serve a term of periodic imprisonment under Article 7 for a period not to exceed that specified in paragraph (d) of Section 5-7-1;
- (2) pay a fine and costs;
- (3) work or pursue a course of study or vocational training;
- (4) undergo medical, psychological or psychiatric treatment; or treatment for drug addiction or alcoholism;
- (5) attend or reside in a facility established for the instruction or residence of defendants on probation;
- (6) support his dependents;
- (7) and in addition, if a minor:
 - (i) reside with his parents or in a foster home;
 - (ii) attend school;
 - (iii) attend a non-residential program for youth;
 - (iv) contribute to his own support at home or in a foster home;

- (v) with the consent of the superintendent of the facility, attend an educational program at a facility other than the school in which the offense was committed if he or she is convicted of a crime of violence as defined in Section 2 of the Crime Victims Compensation Act committed in a school, on the real property comprising a school, or within 1,000 feet of the real property comprising a school;
- (8) make restitution as provided in Section 5-5-6 of this Code;
- (9) perform some reasonable public or community service;
- (10) serve a term of home confinement. In addition to any other applicable condition of probation or conditional discharge, the conditions of home confinement shall be that the offender:
- (i) remain within the interior premises of the place designated for his confinement during the hours designated by the court;
 - (ii) admit any person or agent designated by the court into the offender's place of confinement at any time for purposes of verifying the offender's compliance with the conditions of his confinement; and
 - (iii) if further deemed necessary by the court or the Probation or Court Services Department, be placed on an approved electronic monitoring device, subject to Article 8A of Chapter V;
- (iv) for persons convicted of any alcohol, cannabis or controlled substance violation who are placed on an approved monitoring device as a condition of probation or conditional discharge, the court shall impose a reasonable fee for each day of the use of the device, as established by the county board in subsection (g) of this Section, unless after determining the inability of the offender to pay the fee, the court assesses a lesser fee or no fee as the case may be. This fee shall be imposed in addition to the fees imposed under subsections (g) and (i) of this Section. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the substance abuse services fund under Section 5-1086.1 of the Counties Code; and
- (v) for persons convicted of offenses other than those referenced in clause (iv) above and who are placed on an approved monitoring device as a condition of probation or conditional discharge, the court shall impose a reasonable fee for each day of the use of the device, as established by the county board in subsection (g) of this Section, unless after determining the inability of the defendant to pay the fee, the court assesses a lesser fee or no fee as the case may be. This fee shall be imposed in addition to the fees imposed under subsections (g) and (i) of this Section. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer who shall use the monies collected to defray the costs of corrections. The county treasurer shall deposit the fee collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.
- (11) comply with the terms and conditions of an order of protection issued by the court pursuant to the Illinois Domestic Violence Act of 1986, as now or hereafter amended, or an order of protection issued by the court of another state, tribe, or United States territory. A copy of the order of protection shall be transmitted to the probation officer or agency having responsibility for the case;
- (12) reimburse any "local anti-crime program" as defined in Section 7 of the Anti-Crime Advisory Council Act for any reasonable expenses incurred by the program on the offender's case, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced;
- (13) contribute a reasonable sum of money, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced, (i) to a "local anti-crime program", as defined in Section 7 of the Anti-Crime Advisory Council Act, or (ii) for offenses under the jurisdiction of the Department of Natural Resources, to the fund established by the Department of Natural Resources for the purchase of evidence for investigation purposes and to conduct investigations as outlined in Section 805-105 of the Department of Natural Resources (Conservation) Law;
- (14) refrain from entering into a designated geographic area except upon such terms as the court finds appropriate. Such terms may include consideration of the purpose of the entry, the time of day, other persons accompanying the defendant, and advance approval by a probation officer, if the defendant has been placed on probation or advance approval by the court, if the defendant was placed on conditional discharge;
- (15) refrain from having any contact, directly or indirectly, with certain specified persons or particular types of persons, including but not limited to members of street gangs and drug

users or dealers;

(16) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug; ~~and~~

(17) if convicted for an offense committed on or after the effective date of this amendatory Act of the 95th General Assembly that would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961, refrain from communicating with or contacting, by means of the Internet, a person who is related to the accused and whom the accused reasonably believes to be under 18 years of age; for purposes of this paragraph (17), "Internet" has the meaning ascribed to it in Section 16J-5 of the Criminal Code of 1961; and a person is related to the accused if the person is: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused; and -

(19) refrain from possessing a firearm or other dangerous weapon where the offense is a misdemeanor that did not involve the intentional or knowing infliction of bodily harm or threat of bodily harm.

(c) The court may as a condition of probation or of conditional discharge require that a person under 18 years of age found guilty of any alcohol, cannabis or controlled substance violation, refrain from acquiring a driver's license during the period of probation or conditional discharge. If such person is in possession of a permit or license, the court may require that the minor refrain from driving or operating any motor vehicle during the period of probation or conditional discharge, except as may be necessary in the course of the minor's lawful employment.

(d) An offender sentenced to probation or to conditional discharge shall be given a certificate setting forth the conditions thereof.

(e) Except where the offender has committed a fourth or subsequent violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code, the court shall not require as a condition of the sentence of probation or conditional discharge that the offender be committed to a period of imprisonment in excess of 6 months. This 6 month limit shall not include periods of confinement given pursuant to a sentence of county impact incarceration under Section 5-8-1.2.

Persons committed to imprisonment as a condition of probation or conditional discharge shall not be committed to the Department of Corrections.

(f) The court may combine a sentence of periodic imprisonment under Article 7 or a sentence to a county impact incarceration program under Article 8 with a sentence of probation or conditional discharge.

(g) An offender sentenced to probation or to conditional discharge and who during the term of either undergoes mandatory drug or alcohol testing, or both, or is assigned to be placed on an approved electronic monitoring device, shall be ordered to pay all costs incidental to such mandatory drug or alcohol testing, or both, and all costs incidental to such approved electronic monitoring in accordance with the defendant's ability to pay those costs. The county board with the concurrence of the Chief Judge of the judicial circuit in which the county is located shall establish reasonable fees for the cost of maintenance, testing, and incidental expenses related to the mandatory drug or alcohol testing, or both, and all costs incidental to approved electronic monitoring, involved in a successful probation program for the county. The concurrence of the Chief Judge shall be in the form of an administrative order. The fees shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all moneys collected from these fees to the county treasurer who shall use the moneys collected to defray the costs of drug testing, alcohol testing, and electronic monitoring. The county treasurer shall deposit the fees collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.

(h) Jurisdiction over an offender may be transferred from the sentencing court to the court of another circuit with the concurrence of both courts. Further transfers or retransfers of jurisdiction are also authorized in the same manner. The court to which jurisdiction has been transferred shall have the same powers as the sentencing court.

(i) The court shall impose upon an offender sentenced to probation after January 1, 1989 or to conditional discharge after January 1, 1992 or to community service under the supervision of a probation or court services department after January 1, 2004, as a condition of such probation or conditional discharge or supervised community service, a fee of \$50 for each month of probation or conditional discharge supervision or supervised community service ordered by the court, unless after determining the inability of the person sentenced to probation or conditional discharge or supervised community service to pay the fee, the court assesses a lesser fee. The court may not impose the fee on a minor who is made a ward of the State under the Juvenile Court Act of 1987 while the minor is in placement. The fee shall be imposed only

upon an offender who is actively supervised by the probation and court services department. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the probation and court services fund under Section 15.1 of the Probation and Probation Officers Act.

A circuit court may not impose a probation fee under this subsection (i) in excess of \$25 per month unless: (1) the circuit court has adopted, by administrative order issued by the chief judge, a standard probation fee guide determining an offender's ability to pay, under guidelines developed by the Administrative Office of the Illinois Courts; and (2) the circuit court has authorized, by administrative order issued by the chief judge, the creation of a Crime Victim's Services Fund, to be administered by the Chief Judge or his or her designee, for services to crime victims and their families. Of the amount collected as a probation fee, up to \$5 of that fee collected per month may be used to provide services to crime victims and their families.

This amendatory Act of the 93rd General Assembly deletes the \$10 increase in the fee under this subsection that was imposed by Public Act 93-616. This deletion is intended to control over any other Act of the 93rd General Assembly that retains or incorporates that fee increase.

(i-5) In addition to the fees imposed under subsection (i) of this Section, in the case of an offender convicted of a felony sex offense (as defined in the Sex Offender Management Board Act) or an offense that the court or probation department has determined to be sexually motivated (as defined in the Sex Offender Management Board Act), the court or the probation department shall assess additional fees to pay for all costs of treatment, assessment, evaluation for risk and treatment, and monitoring the offender, based on that offender's ability to pay those costs either as they occur or under a payment plan.

(j) All fines and costs imposed under this Section for any violation of Chapters 3, 4, 6, and 11 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, shall be collected and disbursed by the circuit clerk as provided under Section 27.5 of the Clerks of Courts Act.

(k) Any offender who is sentenced to probation or conditional discharge for a felony sex offense as defined in the Sex Offender Management Board Act or any offense that the court or probation department has determined to be sexually motivated as defined in the Sex Offender Management Board Act shall be required to refrain from any contact, directly or indirectly, with any persons specified by the court and shall be available for all evaluations and treatment programs required by the court or the probation department.

(l) The court may order an offender who is sentenced to probation or conditional discharge for a violation of an order of protection be placed under electronic surveillance as provided in Section 5-8A-7 of this Code.

(Source: P.A. 94-159, eff. 7-11-05; 94-161, eff. 7-11-05; 94-556, eff. 9-11-05; 95-331, eff. 8-21-07; 95-464, eff. 6-1-08; 95-578, eff. 6-1-08; 95-696, eff. 6-1-08; 95-773, eff. 1-1-09; 95-876, eff. 8-21-08.)

(Text of Section after amendment by P.A. 95-983)

Sec. 5-6-3. Conditions of Probation and of Conditional Discharge.

(a) The conditions of probation and of conditional discharge shall be that the person:

(1) not violate any criminal statute of any jurisdiction;

(2) report to or appear in person before such person or agency as directed by the court;

(3) refrain from possessing a firearm or other dangerous weapon where the offense is a felony or, if a misdemeanor, the offense involved the intentional or knowing infliction of bodily harm or threat of bodily harm;

(4) not leave the State without the consent of the court or, in circumstances in which the reason for the absence is of such an emergency nature that prior consent by the court is not possible, without the prior notification and approval of the person's probation officer. Transfer of a person's probation or conditional discharge supervision to another state is subject to acceptance by the other state pursuant to the Interstate Compact for Adult Offender Supervision;

(5) permit the probation officer to visit him at his home or elsewhere to the extent necessary to discharge his duties;

(6) perform no less than 30 hours of community service and not more than 120 hours of community service, if community service is available in the jurisdiction and is funded and approved by the county board where the offense was committed, where the offense was related to or in furtherance of the criminal activities of an organized gang and was motivated by the offender's membership in or allegiance to an organized gang. The community service shall include, but 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 within the municipality or county in which the violation occurred.

When possible and reasonable, the community service should be performed in the offender's neighborhood. For purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act;

(7) if he or she is at least 17 years of age and has been sentenced to probation or conditional discharge for a misdemeanor or felony in a county of 3,000,000 or more inhabitants and has not been previously convicted of a misdemeanor or felony, may be required by the sentencing court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program approved by the court. The person on probation or conditional discharge must attend a public institution of education to obtain the educational or vocational training required by this clause (7). The court shall revoke the probation or conditional discharge of a person who wilfully fails to comply with this clause (7). The person on probation or conditional discharge shall be required to pay for the cost of the educational courses or GED test, if a fee is charged for those courses or test. The court shall resentence the offender whose probation or conditional discharge has been revoked as provided in Section 5-6-4. This clause (7) does not apply to a person who has a high school diploma or has successfully passed the GED test. This clause (7) does not apply to a person who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program;

(8) if convicted of possession of a substance prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act after a previous conviction or disposition of supervision for possession of a substance prohibited by the Cannabis Control Act or Illinois Controlled Substances Act or after a sentence of probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act and upon a finding by the court that the person is addicted, undergo treatment at a substance abuse program approved by the court;

(8.5) if convicted of a felony sex offense as defined in the Sex Offender Management Board Act, the person shall undergo and successfully complete sex offender treatment by a treatment provider approved by the Board and conducted in conformance with the standards developed under the Sex Offender Management Board Act;

(8.6) if convicted of a sex offense as defined in the Sex Offender Management Board Act, refrain from residing at the same address or in the same condominium unit or apartment unit or in the same condominium complex or apartment complex with another person he or she knows or reasonably should know is a convicted sex offender or has been placed on supervision for a sex offense; the provisions of this paragraph do not apply to a person convicted of a sex offense who is placed in a Department of Corrections licensed transitional housing facility for sex offenders;

(8.7) if convicted for an offense committed on or after June 1, 2008 (the effective date of Public Act 95-464) ~~this amendatory Act of the 95th General Assembly~~ that

would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961, refrain from communicating with or contacting, by means of the Internet, a person who is not related to the accused and whom the accused reasonably believes to be under 18 years of age; for purposes of this paragraph (8.7), "Internet" has the meaning ascribed to it in Section 16J-5 of the Criminal Code of 1961; and a person is not related to the accused if the person is not: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused;

(8.8) if convicted for an offense under Section 11-6, 11-9.1, 11-15.1, 11-20.1, 11-20.3, or 11-21 of the Criminal Code of 1961, or any attempt to commit any of these offenses, committed on or after June 1, 2009 (the effective date of Public Act 95-983) ~~this amendatory Act of the 95th General Assembly~~;

(i) not access or use a computer or any other device with Internet capability without the prior written approval of the offender's probation officer, except in connection with the offender's employment or search for employment with the prior approval of the offender's probation officer;

(ii) submit to periodic unannounced examinations of the offender's computer or any other device with Internet capability by the offender's probation officer, a law enforcement officer, or assigned computer or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal or external peripherals and removal of such information,

equipment, or device to conduct a more thorough inspection;

(iii) submit to the installation on the offender's computer or device with Internet capability, at the offender's expense, of one or more hardware or software systems to monitor the Internet use; and

(iv) submit to any other appropriate restrictions concerning the offender's use of or access to a computer or any other device with Internet capability imposed by the offender's probation officer;

(9) if convicted of a felony, physically surrender at a time and place designated by the court, his or her Firearm Owner's Identification Card and any and all firearms in his or her possession; and

(10) if convicted of a sex offense as defined in subsection (a-5) of Section 3-1-2 of this Code, unless the offender is a parent or guardian of the person under 18 years of age present in the home and no non-familial minors are present, not participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, being employed as a department store Santa Claus, or wearing an Easter Bunny costume on or preceding Easter.

(b) The Court may in addition to other reasonable conditions relating to the nature of the offense or the rehabilitation of the defendant as determined for each defendant in the proper discretion of the Court require that the person:

(1) serve a term of periodic imprisonment under Article 7 for a period not to exceed that specified in paragraph (d) of Section 5-7-1;

(2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical, psychological or psychiatric treatment; or treatment for drug addiction or alcoholism;

(5) attend or reside in a facility established for the instruction or residence of defendants on probation;

(6) support his dependents;

(7) and in addition, if a minor:

(i) reside with his parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth;

(iv) contribute to his own support at home or in a foster home;

(v) with the consent of the superintendent of the facility, attend an educational program at a facility other than the school in which the offense was committed if he or she is convicted of a crime of violence as defined in Section 2 of the Crime Victims Compensation Act committed in a school, on the real property comprising a school, or within 1,000 feet of the real property comprising a school;

(8) make restitution as provided in Section 5-5-6 of this Code;

(9) perform some reasonable public or community service;

(10) serve a term of home confinement. In addition to any other applicable condition of probation or conditional discharge, the conditions of home confinement shall be that the offender:

(i) remain within the interior premises of the place designated for his confinement during the hours designated by the court;

(ii) admit any person or agent designated by the court into the offender's place of confinement at any time for purposes of verifying the offender's compliance with the conditions of his confinement; and

(iii) if further deemed necessary by the court or the Probation or Court Services Department, be placed on an approved electronic monitoring device, subject to Article 8A of Chapter V;

(iv) for persons convicted of any alcohol, cannabis or controlled substance violation who are placed on an approved monitoring device as a condition of probation or conditional discharge, the court shall impose a reasonable fee for each day of the use of the device, as established by the county board in subsection (g) of this Section, unless after determining the inability of the offender to pay the fee, the court assesses a lesser fee or no fee as the case may be. This fee shall be imposed in addition to the fees imposed under subsections (g) and (i) of this Section. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected

from this fee to the county treasurer for deposit in the substance abuse services fund under Section 5-1086.1 of the Counties Code; and

(v) for persons convicted of offenses other than those referenced in clause (iv) above and who are placed on an approved monitoring device as a condition of probation or conditional discharge, the court shall impose a reasonable fee for each day of the use of the device, as established by the county board in subsection (g) of this Section, unless after determining the inability of the defendant to pay the fee, the court assesses a lesser fee or no fee as the case may be. This fee shall be imposed in addition to the fees imposed under subsections (g) and (i) of this Section. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer who shall use the monies collected to defray the costs of corrections. The county treasurer shall deposit the fee collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.

(11) comply with the terms and conditions of an order of protection issued by the court pursuant to the Illinois Domestic Violence Act of 1986, as now or hereafter amended, or an order of protection issued by the court of another state, tribe, or United States territory. A copy of the order of protection shall be transmitted to the probation officer or agency having responsibility for the case;

(12) reimburse any "local anti-crime program" as defined in Section 7 of the Anti-Crime Advisory Council Act for any reasonable expenses incurred by the program on the offender's case, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced;

(13) contribute a reasonable sum of money, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced, (i) to a "local anti-crime program", as defined in Section 7 of the Anti-Crime Advisory Council Act, or (ii) for offenses under the jurisdiction of the Department of Natural Resources, to the fund established by the Department of Natural Resources for the purchase of evidence for investigation purposes and to conduct investigations as outlined in Section 805-105 of the Department of Natural Resources (Conservation) Law;

(14) refrain from entering into a designated geographic area except upon such terms as the court finds appropriate. Such terms may include consideration of the purpose of the entry, the time of day, other persons accompanying the defendant, and advance approval by a probation officer, if the defendant has been placed on probation or advance approval by the court, if the defendant was placed on conditional discharge;

(15) refrain from having any contact, directly or indirectly, with certain specified persons or particular types of persons, including but not limited to members of street gangs and drug users or dealers;

(16) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug;

(17) if convicted for an offense committed on or after June 1, 2008 (the effective date of Public Act 95-464) ~~this amendatory Act of the 95th General Assembly~~ that

would qualify the accused as a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961, refrain from communicating with or contacting, by means of the Internet, a person who is related to the accused and whom the accused reasonably believes to be under 18 years of age; for purposes of this paragraph (17), "Internet" has the meaning ascribed to it in Section 16J-5 of the Criminal Code of 1961; and a person is related to the accused if the person is: (i) the spouse, brother, or sister of the accused; (ii) a descendant of the accused; (iii) a first or second cousin of the accused; or (iv) a step-child or adopted child of the accused; ~~and~~

(18) if convicted for an offense committed on or after June 1, 2009 (the effective date of Public Act 95-983) ~~this amendatory Act of the 95th General Assembly~~ that

would qualify as a sex offense as defined in the Sex Offender Registration Act:

(i) not access or use a computer or any other device with Internet capability without the prior written approval of the offender's probation officer, except in connection with the offender's employment or search for employment with the prior approval of the offender's probation officer;

(ii) submit to periodic unannounced examinations of the offender's computer or any other device with Internet capability by the offender's probation officer, a law enforcement officer, or assigned computer or information technology specialist, including the retrieval and copying of all data

from the computer or device and any internal or external peripherals and removal of such information, equipment, or device to conduct a more thorough inspection;

(iii) submit to the installation on the offender's computer or device with Internet capability, at the subject's expense, of one or more hardware or software systems to monitor the Internet use; and

(iv) submit to any other appropriate restrictions concerning the offender's use of or access to a computer or any other device with Internet capability imposed by the offender's probation officer; and -

(19) refrain from possessing a firearm or other dangerous weapon where the offense is a misdemeanor that did not involve the intentional or knowing infliction of bodily harm or threat of bodily harm.

(c) The court may as a condition of probation or of conditional discharge require that a person under 18 years of age found guilty of any alcohol, cannabis or controlled substance violation, refrain from acquiring a driver's license during the period of probation or conditional discharge. If such person is in possession of a permit or license, the court may require that the minor refrain from driving or operating any motor vehicle during the period of probation or conditional discharge, except as may be necessary in the course of the minor's lawful employment.

(d) An offender sentenced to probation or to conditional discharge shall be given a certificate setting forth the conditions thereof.

(e) Except where the offender has committed a fourth or subsequent violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code, the court shall not require as a condition of the sentence of probation or conditional discharge that the offender be committed to a period of imprisonment in excess of 6 months. This 6 month limit shall not include periods of confinement given pursuant to a sentence of county impact incarceration under Section 5-8-1.2.

Persons committed to imprisonment as a condition of probation or conditional discharge shall not be committed to the Department of Corrections.

(f) The court may combine a sentence of periodic imprisonment under Article 7 or a sentence to a county impact incarceration program under Article 8 with a sentence of probation or conditional discharge.

(g) An offender sentenced to probation or to conditional discharge and who during the term of either undergoes mandatory drug or alcohol testing, or both, or is assigned to be placed on an approved electronic monitoring device, shall be ordered to pay all costs incidental to such mandatory drug or alcohol testing, or both, and all costs incidental to such approved electronic monitoring in accordance with the defendant's ability to pay those costs. The county board with the concurrence of the Chief Judge of the judicial circuit in which the county is located shall establish reasonable fees for the cost of maintenance, testing, and incidental expenses related to the mandatory drug or alcohol testing, or both, and all costs incidental to approved electronic monitoring, involved in a successful probation program for the county. The concurrence of the Chief Judge shall be in the form of an administrative order. The fees shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all moneys collected from these fees to the county treasurer who shall use the moneys collected to defray the costs of drug testing, alcohol testing, and electronic monitoring. The county treasurer shall deposit the fees collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.

(h) Jurisdiction over an offender may be transferred from the sentencing court to the court of another circuit with the concurrence of both courts. Further transfers or retransfers of jurisdiction are also authorized in the same manner. The court to which jurisdiction has been transferred shall have the same powers as the sentencing court.

(i) The court shall impose upon an offender sentenced to probation after January 1, 1989 or to conditional discharge after January 1, 1992 or to community service under the supervision of a probation or court services department after January 1, 2004, as a condition of such probation or conditional discharge or supervised community service, a fee of \$50 for each month of probation or conditional discharge supervision or supervised community service ordered by the court, unless after determining the inability of the person sentenced to probation or conditional discharge or supervised community service to pay the fee, the court assesses a lesser fee. The court may not impose the fee on a minor who is made a ward of the State under the Juvenile Court Act of 1987 while the minor is in placement. The fee shall be imposed only upon an offender who is actively supervised by the probation and court services department. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the probation and court services fund under Section 15.1 of the Probation and Probation Officers Act.

A circuit court may not impose a probation fee under this subsection (i) in excess of \$25 per month

unless: (1) the circuit court has adopted, by administrative order issued by the chief judge, a standard probation fee guide determining an offender's ability to pay, under guidelines developed by the Administrative Office of the Illinois Courts; and (2) the circuit court has authorized, by administrative order issued by the chief judge, the creation of a Crime Victim's Services Fund, to be administered by the Chief Judge or his or her designee, for services to crime victims and their families. Of the amount collected as a probation fee, up to \$5 of that fee collected per month may be used to provide services to crime victims and their families.

This amendatory Act of the 93rd General Assembly deletes the \$10 increase in the fee under this subsection that was imposed by Public Act 93-616. This deletion is intended to control over any other Act of the 93rd General Assembly that retains or incorporates that fee increase.

(i-5) In addition to the fees imposed under subsection (i) of this Section, in the case of an offender convicted of a felony sex offense (as defined in the Sex Offender Management Board Act) or an offense that the court or probation department has determined to be sexually motivated (as defined in the Sex Offender Management Board Act), the court or the probation department shall assess additional fees to pay for all costs of treatment, assessment, evaluation for risk and treatment, and monitoring the offender, based on that offender's ability to pay those costs either as they occur or under a payment plan.

(j) All fines and costs imposed under this Section for any violation of Chapters 3, 4, 6, and 11 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, shall be collected and disbursed by the circuit clerk as provided under Section 27.5 of the Clerks of Courts Act.

(k) Any offender who is sentenced to probation or conditional discharge for a felony sex offense as defined in the Sex Offender Management Board Act or any offense that the court or probation department has determined to be sexually motivated as defined in the Sex Offender Management Board Act shall be required to refrain from any contact, directly or indirectly, with any persons specified by the court and shall be available for all evaluations and treatment programs required by the court or the probation department.

(l) The court may order an offender who is sentenced to probation or conditional discharge for a violation of an order of protection be placed under electronic surveillance as provided in Section 5-8A-7 of this Code.

(Source: P.A. 94-159, eff. 7-11-05; 94-161, eff. 7-11-05; 94-556, eff. 9-11-05; 95-331, eff. 8-21-07; 95-464, eff. 6-1-08; 95-578, eff. 6-1-08; 95-696, eff. 6-1-08; 95-773, eff. 1-1-09; 95-876, eff. 8-21-08; 95-983, eff. 6-1-09; revised 10-20-08.)

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 foregoing message from the Senate reporting Senate Amendment No. 1 to HOUSE BILL 3714 was placed on the Calendar on the order of Concurrence.

A message from the Senate by

Ms. Rock, Secretary:

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

HOUSE BILL 1335

A bill for AN ACT concerning education.

Together with the attached amendment thereto (which amendment has been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 1335

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 1335 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by adding Sections 10-20.46, 22-50, and 34-18.37 as follows:

(105 ILCS 5/10-20.46 new)

Sec. 10-20.46. Press boxes; accessibility. A school board does not have to comply with the Illinois Accessibility Code (71 Ill. Adm. Code 400) with respect to accessibility to press boxes that are on school property if the press boxes were constructed before the effective date of this amendatory Act of the 96th General Assembly.

(105 ILCS 5/22-50 new)

Sec. 22-50. Illinois Accessibility Task Force.

(a) The Illinois Accessibility Task Force is created to recommend any necessary revisions to the Illinois Accessibility Code (71 Ill. Adm. Code 400) to comply with the federal Americans with Disabilities Act of 1990 with respect to public school property.

(b) The task force shall consist of the following members:

(1) One member appointed by the President of the Senate.

(2) One member appointed by the Minority Leader of the Senate.

(3) One member appointed by the Speaker of the House of Representatives.

(4) One member appointed by the Minority Leader of the House of Representatives.

(5) The Executive Director of the Capital Development Board or his or her designee.

(6) The Attorney General or his or her designee.

(7) A representative of a statewide association representing school boards appointed by the Executive Director of the Capital Development Board.

(8) A representative of a statewide association representing regional superintendents of schools appointed by the Executive Director of the Capital Development Board.

(9) A representative of a statewide coalition of citizens with disabilities appointed by the Executive Director of the Capital Development Board.

(c) The Capital Development Board shall provide administrative and other support to the task force.

(d) The task force shall report its recommendations to the Capital Development Board and the General Assembly, and upon reporting its recommendations the task force is dissolved.

(105 ILCS 5/34-18.37 new)

Sec. 34-18.37. Press boxes; accessibility. The board does not have to comply with the Illinois Accessibility Code (71 Ill. Adm. Code 400) with respect to accessibility to press boxes that are on school property if the press boxes were constructed before the effective date of this amendatory Act of the 96th General Assembly.

Section 99. Effective date. This Act takes effect July 1, 2009."

The foregoing message from the Senate reporting Senate Amendment No. 1 to HOUSE BILL 1335 was placed on the Calendar on the order of Concurrence.

A message from the Senate by

Ms. Rock, Secretary:

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

HOUSE BILL 1322

A bill for AN ACT concerning local government.

Together with the attached amendments thereto (which amendments have been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 1322

Senate Amendment No. 2 to HOUSE BILL NO. 1322

Senate Amendment No. 3 to HOUSE BILL NO. 1322

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 1322 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Transportation Development Partnership Act.

Section 5. Transportation Development Partnership Trust Fund. The Transportation Development Partnership Trust Fund is created as a trust fund in the State treasury. The State Treasurer shall be the

custodian of the Fund. If a county or an entity created by an intergovernmental agreement between 2 or more counties elects to participate under Section 5-1035.1 or 5-1006.5 of the Counties Code, the Department of Revenue shall transfer to the State Treasurer all or a portion of the taxes and penalties collected under the Special County Retailers Occupation Tax For Public Safety or Transportation and under the County Option Motor Fuel Tax into the Transportation Development Partnership Trust Fund. The Treasurer shall maintain a separate account for each participating county or entity within the Fund. The Department of Transportation shall administer the Fund.

Moneys in the Fund shall be used for transportation-related projects. The Department of Transportation and participating counties or entities must enter into an intergovernmental agreement. The agreement shall:

- (1) Describe the project to be constructed from the Department of Transportation's statewide master plan for transportation.
- (2) Provide that the county or entity must raise a significant percentage, no less than the amount contributed by the State, of required federal matching funds.
- (3) Provide that the Secretary of Transportation must certify that the county or entity has transferred the required moneys to the Fund and the certification shall be transmitted to each county or entity no more than 30 days after the final deposit is made.
- (4) Provide for the repayment, without interest, to the county or entity of the moneys contributed by the county or entity to the Fund.
- (5) Provide that the repayment of the moneys contributed by the county or the entity shall be made by the Department of Transportation (i) no later than 10 years after the certification by the Secretary of Transportation that the money has been deposited by the county or entity into the Fund or (ii) no more than 90 days after the authorization for funds for transportation under Section 4 of the General Obligation Bond Act has increased by at least \$5 billion over the amount authorized on the effective date of the Act, whichever occurs earlier.

Section 10. The Counties Code is amended by changing Sections 5-1006.5 and 5-1035.1 as follows:
(55 ILCS 5/5-1006.5)

Sec. 5-1006.5. Special County Retailers' Occupation Tax For Public Safety, Public Facilities, or Transportation.

(a) The county board of any county may impose a tax upon all persons engaged in the business of selling tangible personal property, other than personal property titled or registered with an agency of this State's government, at retail in the county on the gross receipts from the sales made in the course of business to provide revenue to be used exclusively for public safety, public facility, or transportation purposes in that county, if a proposition for the tax has been submitted to the electors of that county and approved by a majority of those voting on the question. If imposed, this tax shall be imposed only in one-quarter percent increments. By resolution, the county board may order the proposition to be submitted at any election. If the tax is imposed for transportation purposes for expenditures for public highways or as authorized under the Illinois Highway Code, the county board must publish notice of the existence of its long-range highway transportation plan as required or described in Section 5-301 of the Illinois Highway Code and must make the plan publicly available prior to approval of the ordinance or resolution imposing the tax. If the tax is imposed for transportation purposes for expenditures for passenger rail transportation, the county board must publish notice of the existence of its long-range passenger rail transportation plan and must make the plan publicly available prior to approval of the ordinance or resolution imposing the tax. The county clerk shall certify the question to the proper election authority, who shall submit the proposition at an election in accordance with the general election law.

- (1) The proposition for public safety purposes shall be in substantially the following form:

"To pay for public safety purposes, shall (name of county) be authorized to impose an increase on its share of local sales taxes by (insert rate)?"

As additional information on the ballot below the question shall appear the following:

"This would mean that a consumer would pay an additional (insert amount) in sales tax for every \$100 of tangible personal property bought at retail."

The county board may also opt to establish a sunset provision at which time the additional sales tax would cease being collected, if not terminated earlier by a vote of the county board. If the county board votes to include a sunset provision, the proposition for public safety purposes shall be in substantially the following form:

"To pay for public safety purposes, shall (name of county) be authorized to impose an increase on its share of local sales taxes by (insert rate) for a period not to exceed (insert number of

years)?"

As additional information on the ballot below the question shall appear the following:

"This would mean that a consumer would pay an additional (insert amount) in sales tax for every \$100 of tangible personal property bought at retail. If imposed, the additional tax would cease being collected at the end of (insert number of years), if not terminated earlier by a vote of the county board."

For the purposes of the paragraph, "public safety purposes" means crime prevention, detention, fire fighting, police, medical, ambulance, or other emergency services.

Votes shall be recorded as "Yes" or "No".

(2) The proposition for transportation purposes shall be in substantially the following form:

"To pay for improvements to roads and other transportation purposes, shall (name of county) be authorized to impose an increase on its share of local sales taxes by (insert rate)?"

As additional information on the ballot below the question shall appear the following:

"This would mean that a consumer would pay an additional (insert amount) in sales tax for every \$100 of tangible personal property bought at retail."

The county board may also opt to establish a sunset provision at which time the additional sales tax would cease being collected, if not terminated earlier by a vote of the county board. If the county board votes to include a sunset provision, the proposition for transportation purposes shall be in substantially the following form:

"To pay for road improvements and other transportation purposes, shall (name of county) be authorized to impose an increase on its share of local sales taxes by (insert rate) for a period not to exceed (insert number of years)?"

As additional information on the ballot below the question shall appear the following:

"This would mean that a consumer would pay an additional (insert amount) in sales tax for every \$100 of tangible personal property bought at retail. If imposed, the additional tax would cease being collected at the end of (insert number of years), if not terminated earlier by a vote of the county board."

For the purposes of this paragraph, transportation purposes means construction, maintenance, operation, and improvement of public highways, any other purpose for which a county may expend funds under the Illinois Highway Code, and passenger rail transportation.

The votes shall be recorded as "Yes" or "No".

(3) The proposition for public facility purposes shall be in substantially the following form:

"To pay for public facility purposes, shall (name of county) be authorized to impose an increase on its share of local sales taxes by (insert rate)?"

As additional information on the ballot below the question shall appear the following:

"This would mean that a consumer would pay an additional (insert amount) in sales tax for every \$100 of tangible personal property bought at retail."

The county board may also opt to establish a sunset provision at which time the additional sales tax would cease being collected, if not terminated earlier by a vote of the county board. If the county board votes to include a sunset provision, the proposition for public facility purposes shall be in substantially the following form:

"To pay for public facility purposes, shall (name of county) be authorized to impose an increase on its share of local sales taxes by (insert rate) for a period not to exceed (insert number of years)?"

As additional information on the ballot below the question shall appear the following:

"This would mean that a consumer would pay an additional (insert amount) in sales tax for every \$100 of tangible personal property bought at retail. If imposed, the additional tax would cease being collected at the end of (insert number of years), if not terminated earlier by a vote of the county board."

For purposes of this Section, "public facilities purposes" means the acquisition, development, construction, reconstruction, rehabilitation, improvement, financing, architectural planning, and installation of capital facilities consisting of buildings, structures, and durable equipment and for the acquisition and improvement of real property and interest in real property required, or

expected to be required, in connection with the public facilities, for use by the county for the furnishing of governmental services to its citizens, including but not limited to museums and nursing homes.

The votes shall be recorded as "Yes" or "No".

If a majority of the electors voting on the proposition vote in favor of it, the county may impose the tax. A county may not submit more than one proposition authorized by this Section to the electors at any one time.

This additional tax may not be imposed on the sales of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food which has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes, and needles used by diabetics. The tax imposed by a county under this Section and all civil penalties that may be assessed as an incident of the tax shall be collected and enforced by the Illinois Department of Revenue and deposited into a special fund created for that purpose. The certificate of registration that is issued by the Department to a retailer under the Retailers' Occupation Tax Act shall permit the retailer to engage in a business that is taxable without registering separately with the Department under an ordinance or resolution under this Section. The Department has full power to administer and enforce this Section, to collect all taxes and penalties due under this Section, to dispose of taxes and penalties so collected in the manner provided in this Section, and to determine all rights to credit memoranda arising on account of the erroneous payment of a tax or penalty under this Section. In the administration of and compliance with this Section, the Department and persons who are subject to this Section shall (i) have the same rights, remedies, privileges, immunities, powers, and duties, (ii) be subject to the same conditions, restrictions, limitations, penalties, and definitions of terms, and (iii) employ the same modes of procedure as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 1k, 1m, 1n, 2 through 2-70 (in respect to all provisions contained in those Sections other than the State rate of tax), 2a, 2b, 2c, 3 (except provisions relating to transaction returns and quarter monthly payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act as if those provisions were set forth in this Section.

Persons subject to any tax imposed under the authority granted in this Section may reimburse themselves for their sellers' tax liability by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which sellers are required to collect under the Use Tax Act, pursuant to such bracketed schedules as the Department may prescribe.

Whenever the Department determines that a refund should be made under this Section to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified and to the person named in the notification from the Department. The refund shall be paid by the State Treasurer out of the County Public Safety or Transportation Retailers' Occupation Tax Fund.

(b) If a tax has been imposed under subsection (a), a service occupation tax shall also be imposed at the same rate upon all persons engaged, in the county, in the business of making sales of service, who, as an incident to making those sales of service, transfer tangible personal property within the county as an incident to a sale of service. This tax may not be imposed on sales of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes, and needles used by diabetics. The tax imposed under this subsection and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the Department of Revenue. The Department has full power to administer and enforce this subsection; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder. In the administration of, and compliance with this subsection, the Department and persons who are subject to this paragraph shall (i) have the same rights, remedies, privileges, immunities, powers, and duties, (ii) be subject to the same conditions, restrictions, limitations, penalties, exclusions, exemptions, and definitions of terms, and (iii) employ the same modes of procedure as are prescribed in Sections 2 (except that the reference to State in the definition of supplier maintaining a place of business in this State shall mean the county), 2a, 2b, 2c, 3 through 3-50 (in respect to all provisions therein other than the State rate of tax), 4 (except that the reference to the State shall be to the county), 5, 7, 8 (except that the jurisdiction to which the tax shall be a debt to the extent indicated in that Section 8 shall be the county), 9 (except as to the disposition of taxes and penalties collected), 10, 11, 12 (except the reference therein to Section 2b of the Retailers' Occupation Tax Act), 13 (except that any

reference to the State shall mean the county), Section 15, 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act, as fully as if those provisions were set forth herein.

Persons subject to any tax imposed under the authority granted in this subsection may reimburse themselves for their serviceman's tax liability by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax that servicemen are authorized to collect under the Service Use Tax Act, in accordance with such bracket schedules as the Department may prescribe.

Whenever the Department determines that a refund should be made under this subsection to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the warrant to be drawn for the amount specified, and to the person named, in the notification from the Department. The refund shall be paid by the State Treasurer out of the County Public Safety or Transportation Retailers' Occupation Fund.

Nothing in this subsection shall be construed to authorize the county to impose a tax upon the privilege of engaging in any business which under the Constitution of the United States may not be made the subject of taxation by the State.

(c) The Department shall immediately pay over to the State Treasurer, ex officio, as trustee, all taxes and penalties collected under this Section to be deposited into the County Public Safety or Transportation Retailers' Occupation Tax Fund, which shall be an unappropriated trust fund held outside of the State treasury. On or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller the disbursement of stated sums of money to the counties from which retailers have paid taxes or penalties to the Department during the second preceding calendar month. The amount to be paid to each county, and deposited by the county into its special fund created for the purposes of this Section, shall be the amount (not including credit memoranda) collected under this Section during the second preceding calendar month by the Department plus an amount the Department determines is necessary to offset any amounts that were erroneously paid to a different taxing body, and not including (i) an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of the county and (ii) any amount that the Department determines is necessary to offset any amounts that were payable to a different taxing body but were erroneously paid to the county. Within 10 days after receipt by the Comptroller of the disbursement certification to the counties provided for in this Section to be given to the Comptroller by the Department, the Comptroller shall cause the orders to be drawn for the respective amounts in accordance with directions contained in the certification.

In addition to the disbursement required by the preceding paragraph, an allocation shall be made in March of each year to each county that received more than \$500,000 in disbursements under the preceding paragraph in the preceding calendar year. The allocation shall be in an amount equal to the average monthly distribution made to each such county under the preceding paragraph during the preceding calendar year (excluding the 2 months of highest receipts). The distribution made in March of each year subsequent to the year in which an allocation was made pursuant to this paragraph and the preceding paragraph shall be reduced by the amount allocated and disbursed under this paragraph in the preceding calendar year. The Department shall prepare and certify to the Comptroller for disbursement the allocations made in accordance with this paragraph.

A county may direct, by ordinance, that all or a portion of the taxes and penalties collected under the Special County Retailers' Occupation Tax For Public Safety or Transportation be deposited into the Transportation Development Partnership Trust Fund.

(d) For the purpose of determining the local governmental unit whose tax is applicable, a retail sale by a producer of coal or another mineral mined in Illinois is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. This paragraph does not apply to coal or another mineral when it is delivered or shipped by the seller to the purchaser at a point outside Illinois so that the sale is exempt under the United States Constitution as a sale in interstate or foreign commerce.

(e) Nothing in this Section shall be construed to authorize a county to impose a tax upon the privilege of engaging in any business that under the Constitution of the United States may not be made the subject of taxation by this State.

(e-5) If a county imposes a tax under this Section, the county board may, by ordinance, discontinue or lower the rate of the tax. If the county board lowers the tax rate or discontinues the tax, a referendum must be held in accordance with subsection (a) of this Section in order to increase the rate of the tax or to reimpose the discontinued tax.

(f) Beginning April 1, 1998, the results of any election authorizing a proposition to impose a tax under

this Section or effecting a change in the rate of tax, or any ordinance lowering the rate or discontinuing the tax, shall be certified by the county clerk and filed with the Illinois Department of Revenue either (i) on or before the first day of April, whereupon the Department shall proceed to administer and enforce the tax as of the first day of July next following the filing; or (ii) on or before the first day of October, whereupon the Department shall proceed to administer and enforce the tax as of the first day of January next following the filing.

(g) When certifying the amount of a monthly disbursement to a county under this Section, the Department shall increase or decrease the amounts by an amount necessary to offset any miscalculation of previous disbursements. The offset amount shall be the amount erroneously disbursed within the previous 6 months from the time a miscalculation is discovered.

(h) This Section may be cited as the "Special County Occupation Tax For Public Safety, Public Facilities, or Transportation Law".

(i) For purposes of this Section, "public safety" includes, but is not limited to, crime prevention, detention, fire fighting, police, medical, ambulance, or other emergency services. For the purposes of this Section, "transportation" includes, but is not limited to, the construction, maintenance, operation, and improvement of public highways, any other purpose for which a county may expend funds under the Illinois Highway Code, and passenger rail transportation. For the purposes of this Section, "public facilities purposes" includes, but is not limited to, the acquisition, development, construction, reconstruction, rehabilitation, improvement, financing, architectural planning, and installation of capital facilities consisting of buildings, structures, and durable equipment and for the acquisition and improvement of real property and interest in real property required, or expected to be required, in connection with the public facilities, for use by the county for the furnishing of governmental services to its citizens, including but not limited to museums and nursing homes.

(j) The Department may promulgate rules to implement this amendatory Act of the 95th General Assembly only to the extent necessary to apply the existing rules for the Special County Retailers' Occupation Tax for Public Safety to this new purpose for public facilities.

(Source: P.A. 94-781, eff. 5-19-06; 95-474, eff. 1-1-08; 95-1002, eff. 11-20-08.)

(55 ILCS 5/5-1035.1) (from Ch. 34, par. 5-1035.1)

Sec. 5-1035.1. County Motor Fuel Tax Law. The county board of the counties of DuPage, Kane and McHenry may, by an ordinance or resolution adopted by an affirmative vote of a majority of the members elected or appointed to the county board, impose a tax upon all persons engaged in the county in the business of selling motor fuel, as now or hereafter defined in the Motor Fuel Tax Law, at retail for the operation of motor vehicles upon public highways or for the operation of recreational watercraft upon waterways. Kane County may exempt diesel fuel from the tax imposed pursuant to this Section. The tax may be imposed, in half-cent increments, at a rate not exceeding 4 cents per gallon of motor fuel sold at retail within the county for the purpose of use or consumption and not for the purpose of resale. The proceeds from the tax shall be used by the county solely for the purpose of operating, constructing and improving public highways and waterways, and acquiring real property and right-of-ways for public highways and waterways within the county imposing the tax.

A tax imposed pursuant to this Section, and all civil penalties that may be assessed as an incident thereof, shall be administered, collected and enforced by the Illinois Department of Revenue in the same manner as the tax imposed under the Retailers' Occupation Tax Act, as now or hereafter amended, insofar as may be practicable; except that in the event of a conflict with the provisions of this Section, this Section shall control. The Department of Revenue shall have full power: to administer and enforce this Section; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder.

Whenever the Department determines that a refund shall be made under this Section to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified, and to the person named, in the notification from the Department. The refund shall be paid by the State Treasurer out of the County Option Motor Fuel Tax Fund.

The Department shall forthwith pay over to the State Treasurer, ex-officio, as trustee, all taxes and penalties collected hereunder, which shall be deposited into the County Option Motor Fuel Tax Fund, a special fund in the State Treasury which is hereby created. On or before the 25th day of each calendar month, the Department shall prepare and certify to the State Comptroller the disbursement of stated sums of money to named counties for which taxpayers have paid taxes or penalties hereunder to the Department

during the second preceding calendar month. The amount to be paid to each county shall be the amount (not including credit memoranda) collected hereunder from retailers within the county during the second preceding calendar month by the Department, but not including an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of the county; less the amount expended during the second preceding month by the Department pursuant to appropriation from the County Option Motor Fuel Tax Fund for the administration and enforcement of this Section, which appropriation shall not exceed \$200,000 for fiscal year 1990 and, for each year thereafter, shall not exceed 2% of the amount deposited into the County Option Motor Fuel Tax Fund during the preceding fiscal year.

A county may direct, by ordinance, that all or a portion of the taxes and penalties collected under the County Option Motor Fuel Tax shall be deposited into the Transportation Development Partnership Trust Fund.

Nothing in this Section shall be construed to authorize a county to impose a tax upon the privilege of engaging in any business which under the Constitution of the United States may not be made the subject of taxation by this State.

An ordinance or resolution imposing a tax hereunder or effecting a change in the rate thereof shall be effective on the first day of the second calendar month next following the month in which the ordinance or resolution is adopted and a certified copy thereof is filed with the Department of Revenue, whereupon the Department of Revenue shall proceed to administer and enforce this Section on behalf of the county as of the effective date of the ordinance or resolution. Upon a change in rate of a tax levied hereunder, or upon the discontinuance of the tax, the county board of the county shall, on or not later than 5 days after the effective date of the ordinance or resolution discontinuing the tax or effecting a change in rate, transmit to the Department of Revenue a certified copy of the ordinance or resolution effecting the change or discontinuance.

This Section shall be known and may be cited as the County Motor Fuel Tax Law.
(Source: P.A. 86-1028; 87-289.)

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

AMENDMENT NO. 2. Amend House Bill 1322, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 2, line 8, before "shall", by inserting "at a minimum"; and on page 2, line 23, before the period, by inserting ", less 10% of the aggregate funds contributed as matching funds and as federal funds".

AMENDMENT NO. 3. Amend House Bill 1322, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Transportation Development Partnership Act.

Section 5. Transportation Development Partnership Trust Fund. The Transportation Development Partnership Trust Fund is created as a trust fund in the State treasury. The State Treasurer shall be the custodian of the Fund. If a county or an entity created by an intergovernmental agreement between 2 or more counties elects to participate under Section 5-1035.1 or 5-1006.5 of the Counties Code or designates funds by ordinance, the Department of Revenue shall transfer to the State Treasurer all or a portion of the taxes and penalties collected under the Special County Retailers Occupation Tax For Public Safety or Transportation and under the County Option Motor Fuel Tax or the funds designated by the county or entity by ordinance into the Transportation Development Partnership Trust Fund. The Department of Transportation shall maintain a separate account for each participating county or entity within the Fund. The Department of Transportation shall administer the Fund.

Moneys in the Fund shall be used for transportation-related projects. The Department of Transportation and participating counties or entities may, at the Secretary's discretion under agency procedures, enter into an intergovernmental agreement. The agreement shall at a minimum:

- (1) Describe the project to be constructed from the Department of Transportation's Multi-Year Highway Improvement Program or the appropriate Metropolitan Planning Organization's Transportation Improvement Program for projects located with a Metropolitan Planning Organization region.
- (2) Provide that an eligible project cost a minimum of \$5,000,000.
- (3) Provide that the county or entity must raise a significant percentage, no less than the amount contributed by the State, of required federal matching funds.
- (4) Provide that the Secretary of Transportation must certify that the county or entity has transferred the required moneys to the Fund and the certification shall be transmitted to each county

or entity no more than 30 days after the final deposit is made.

(5) Provide for the repayment, without interest, to the county or entity of the moneys contributed by the county or entity to the Fund, less 10% of the aggregate funds contributed as matching funds and as federal funds.

(6) Provide that the repayment of the moneys contributed by the county or the entity shall be made by the Department of Transportation no later than 10 years after the certification by the Secretary of Transportation that the money has been deposited by the county or entity into the Fund.

Section 10. The Counties Code is amended by changing Sections 5-1006.5 and 5-1035.1 as follows: (55 ILCS 5/5-1006.5)

Sec. 5-1006.5. Special County Retailers' Occupation Tax For Public Safety, Public Facilities, or Transportation.

(a) The county board of any county may impose a tax upon all persons engaged in the business of selling tangible personal property, other than personal property titled or registered with an agency of this State's government, at retail in the county on the gross receipts from the sales made in the course of business to provide revenue to be used exclusively for public safety, public facility, or transportation purposes in that county, if a proposition for the tax has been submitted to the electors of that county and approved by a majority of those voting on the question. If imposed, this tax shall be imposed only in one-quarter percent increments. By resolution, the county board may order the proposition to be submitted at any election. If the tax is imposed for transportation purposes for expenditures for public highways or as authorized under the Illinois Highway Code, the county board must publish notice of the existence of its long-range highway transportation plan as required or described in Section 5-301 of the Illinois Highway Code and must make the plan publicly available prior to approval of the ordinance or resolution imposing the tax. If the tax is imposed for transportation purposes for expenditures for passenger rail transportation, the county board must publish notice of the existence of its long-range passenger rail transportation plan and must make the plan publicly available prior to approval of the ordinance or resolution imposing the tax. The county clerk shall certify the question to the proper election authority, who shall submit the proposition at an election in accordance with the general election law.

(1) The proposition for public safety purposes shall be in substantially the following form:

"To pay for public safety purposes, shall (name of county) be authorized to impose an increase on its share of local sales taxes by (insert rate)?"

As additional information on the ballot below the question shall appear the following:

"This would mean that a consumer would pay an additional (insert amount) in sales tax for every \$100 of tangible personal property bought at retail."

The county board may also opt to establish a sunset provision at which time the additional sales tax would cease being collected, if not terminated earlier by a vote of the county board. If the county board votes to include a sunset provision, the proposition for public safety purposes shall be in substantially the following form:

"To pay for public safety purposes, shall (name of county) be authorized to impose an increase on its share of local sales taxes by (insert rate) for a period not to exceed (insert number of years)?"

As additional information on the ballot below the question shall appear the following:

"This would mean that a consumer would pay an additional (insert amount) in sales tax for every \$100 of tangible personal property bought at retail. If imposed, the additional tax would cease being collected at the end of (insert number of years), if not terminated earlier by a vote of the county board."

For the purposes of the paragraph, "public safety purposes" means crime prevention, detention, fire fighting, police, medical, ambulance, or other emergency services.

Votes shall be recorded as "Yes" or "No".

(2) The proposition for transportation purposes shall be in substantially the following form:

"To pay for improvements to roads and other transportation purposes, shall (name of county) be authorized to impose an increase on its share of local sales taxes by (insert rate)?"

As additional information on the ballot below the question shall appear the following:

"This would mean that a consumer would pay an additional (insert amount) in sales tax for every \$100 of tangible personal property bought at retail."

The county board may also opt to establish a sunset provision at which time the

additional sales tax would cease being collected, if not terminated earlier by a vote of the county board. If the county board votes to include a sunset provision, the proposition for transportation purposes shall be in substantially the following form:

"To pay for road improvements and other transportation purposes, shall (name of county) be authorized to impose an increase on its share of local sales taxes by (insert rate) for a period not to exceed (insert number of years)?"

As additional information on the ballot below the question shall appear the following:

"This would mean that a consumer would pay an additional (insert amount) in sales tax for every \$100 of tangible personal property bought at retail. If imposed, the additional tax would cease being collected at the end of (insert number of years), if not terminated earlier by a vote of the county board."

For the purposes of this paragraph, transportation purposes means construction, maintenance, operation, and improvement of public highways, any other purpose for which a county may expend funds under the Illinois Highway Code, and passenger rail transportation.

The votes shall be recorded as "Yes" or "No".

(3) The proposition for public facility purposes shall be in substantially the following form:

"To pay for public facility purposes, shall (name of county) be authorized to impose an increase on its share of local sales taxes by (insert rate)?"

As additional information on the ballot below the question shall appear the following:

"This would mean that a consumer would pay an additional (insert amount) in sales tax for every \$100 of tangible personal property bought at retail."

The county board may also opt to establish a sunset provision at which time the additional sales tax would cease being collected, if not terminated earlier by a vote of the county board. If the county board votes to include a sunset provision, the proposition for public facility purposes shall be in substantially the following form:

"To pay for public facility purposes, shall (name of county) be authorized to impose an increase on its share of local sales taxes by (insert rate) for a period not to exceed (insert number of years)?"

As additional information on the ballot below the question shall appear the following:

"This would mean that a consumer would pay an additional (insert amount) in sales tax for every \$100 of tangible personal property bought at retail. If imposed, the additional tax would cease being collected at the end of (insert number of years), if not terminated earlier by a vote of the county board."

For purposes of this Section, "public facilities purposes" means the acquisition, development, construction, reconstruction, rehabilitation, improvement, financing, architectural planning, and installation of capital facilities consisting of buildings, structures, and durable equipment and for the acquisition and improvement of real property and interest in real property required, or expected to be required, in connection with the public facilities, for use by the county for the furnishing of governmental services to its citizens, including but not limited to museums and nursing homes.

The votes shall be recorded as "Yes" or "No".

If a majority of the electors voting on the proposition vote in favor of it, the county may impose the tax. A county may not submit more than one proposition authorized by this Section to the electors at any one time.

This additional tax may not be imposed on the sales of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food which has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes, and needles used by diabetics. The tax imposed by a county under this Section and all civil penalties that may be assessed as an incident of the tax shall be collected and enforced by the Illinois Department of Revenue and deposited into a special fund created for that purpose. The certificate of registration that is issued by the Department to a retailer under the Retailers' Occupation Tax Act shall permit the retailer to engage in a business that is taxable without registering separately with the Department under an ordinance or resolution under this Section. The Department has full power to administer and enforce this Section, to collect all taxes and penalties due under this Section, to dispose of taxes and penalties so collected in the manner provided in this Section, and

to determine all rights to credit memoranda arising on account of the erroneous payment of a tax or penalty under this Section. In the administration of and compliance with this Section, the Department and persons who are subject to this Section shall (i) have the same rights, remedies, privileges, immunities, powers, and duties, (ii) be subject to the same conditions, restrictions, limitations, penalties, and definitions of terms, and (iii) employ the same modes of procedure as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 1k, 1m, 1n, 2 through 2-70 (in respect to all provisions contained in those Sections other than the State rate of tax), 2a, 2b, 2c, 3 (except provisions relating to transaction returns and quarter monthly payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act as if those provisions were set forth in this Section.

Persons subject to any tax imposed under the authority granted in this Section may reimburse themselves for their sellers' tax liability by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which sellers are required to collect under the Use Tax Act, pursuant to such bracketed schedules as the Department may prescribe.

Whenever the Department determines that a refund should be made under this Section to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified and to the person named in the notification from the Department. The refund shall be paid by the State Treasurer out of the County Public Safety or Transportation Retailers' Occupation Tax Fund.

(b) If a tax has been imposed under subsection (a), a service occupation tax shall also be imposed at the same rate upon all persons engaged, in the county, in the business of making sales of service, who, as an incident to making those sales of service, transfer tangible personal property within the county as an incident to a sale of service. This tax may not be imposed on sales of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes, and needles used by diabetics. The tax imposed under this subsection and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the Department of Revenue. The Department has full power to administer and enforce this subsection; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder. In the administration of, and compliance with this subsection, the Department and persons who are subject to this paragraph shall (i) have the same rights, remedies, privileges, immunities, powers, and duties, (ii) be subject to the same conditions, restrictions, limitations, penalties, exclusions, exemptions, and definitions of terms, and (iii) employ the same modes of procedure as are prescribed in Sections 2 (except that the reference to State in the definition of supplier maintaining a place of business in this State shall mean the county), 2a, 2b, 2c, 3 through 3-50 (in respect to all provisions therein other than the State rate of tax), 4 (except that the reference to the State shall be to the county), 5, 7, 8 (except that the jurisdiction to which the tax shall be a debt to the extent indicated in that Section 8 shall be the county), 9 (except as to the disposition of taxes and penalties collected), 10, 11, 12 (except the reference therein to Section 2b of the Retailers' Occupation Tax Act), 13 (except that any reference to the State shall mean the county), Section 15, 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act, as fully as if those provisions were set forth herein.

Persons subject to any tax imposed under the authority granted in this subsection may reimburse themselves for their serviceman's tax liability by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax that servicemen are authorized to collect under the Service Use Tax Act, in accordance with such bracket schedules as the Department may prescribe.

Whenever the Department determines that a refund should be made under this subsection to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the warrant to be drawn for the amount specified, and to the person named, in the notification from the Department. The refund shall be paid by the State Treasurer out of the County Public Safety or Transportation Retailers' Occupation Fund.

Nothing in this subsection shall be construed to authorize the county to impose a tax upon the privilege of engaging in any business which under the Constitution of the United States may not be made the subject of taxation by the State.

(c) The Department shall immediately pay over to the State Treasurer, ex officio, as trustee, all taxes and

penalties collected under this Section to be deposited into the County Public Safety or Transportation Retailers' Occupation Tax Fund, which shall be an unappropriated trust fund held outside of the State treasury. On or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller the disbursement of stated sums of money to the counties from which retailers have paid taxes or penalties to the Department during the second preceding calendar month. The amount to be paid to each county, and deposited by the county into its special fund created for the purposes of this Section, shall be the amount (not including credit memoranda) collected under this Section during the second preceding calendar month by the Department plus an amount the Department determines is necessary to offset any amounts that were erroneously paid to a different taxing body, and not including (i) an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of the county and (ii) any amount that the Department determines is necessary to offset any amounts that were payable to a different taxing body but were erroneously paid to the county. Within 10 days after receipt by the Comptroller of the disbursement certification to the counties provided for in this Section to be given to the Comptroller by the Department, the Comptroller shall cause the orders to be drawn for the respective amounts in accordance with directions contained in the certification.

In addition to the disbursement required by the preceding paragraph, an allocation shall be made in March of each year to each county that received more than \$500,000 in disbursements under the preceding paragraph in the preceding calendar year. The allocation shall be in an amount equal to the average monthly distribution made to each such county under the preceding paragraph during the preceding calendar year (excluding the 2 months of highest receipts). The distribution made in March of each year subsequent to the year in which an allocation was made pursuant to this paragraph and the preceding paragraph shall be reduced by the amount allocated and disbursed under this paragraph in the preceding calendar year. The Department shall prepare and certify to the Comptroller for disbursement the allocations made in accordance with this paragraph.

A county may direct, by ordinance, that all or a portion of the taxes and penalties collected under the Special County Retailers' Occupation Tax For Public Safety or Transportation be deposited into the Transportation Development Partnership Trust Fund.

(d) For the purpose of determining the local governmental unit whose tax is applicable, a retail sale by a producer of coal or another mineral mined in Illinois is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. This paragraph does not apply to coal or another mineral when it is delivered or shipped by the seller to the purchaser at a point outside Illinois so that the sale is exempt under the United States Constitution as a sale in interstate or foreign commerce.

(e) Nothing in this Section shall be construed to authorize a county to impose a tax upon the privilege of engaging in any business that under the Constitution of the United States may not be made the subject of taxation by this State.

(e-5) If a county imposes a tax under this Section, the county board may, by ordinance, discontinue or lower the rate of the tax. If the county board lowers the tax rate or discontinues the tax, a referendum must be held in accordance with subsection (a) of this Section in order to increase the rate of the tax or to reimpose the discontinued tax.

(f) Beginning April 1, 1998, the results of any election authorizing a proposition to impose a tax under this Section or effecting a change in the rate of tax, or any ordinance lowering the rate or discontinuing the tax, shall be certified by the county clerk and filed with the Illinois Department of Revenue either (i) on or before the first day of April, whereupon the Department shall proceed to administer and enforce the tax as of the first day of July next following the filing; or (ii) on or before the first day of October, whereupon the Department shall proceed to administer and enforce the tax as of the first day of January next following the filing.

(g) When certifying the amount of a monthly disbursement to a county under this Section, the Department shall increase or decrease the amounts by an amount necessary to offset any miscalculation of previous disbursements. The offset amount shall be the amount erroneously disbursed within the previous 6 months from the time a miscalculation is discovered.

(h) This Section may be cited as the "Special County Occupation Tax For Public Safety, Public Facilities, or Transportation Law".

(i) For purposes of this Section, "public safety" includes, but is not limited to, crime prevention, detention, fire fighting, police, medical, ambulance, or other emergency services. For the purposes of this Section, "transportation" includes, but is not limited to, the construction, maintenance, operation, and improvement of public highways, any other purpose for which a county may expend funds under the Illinois Highway Code, and passenger rail transportation. For the purposes of this Section, "public facilities

purposes" includes, but is not limited to, the acquisition, development, construction, reconstruction, rehabilitation, improvement, financing, architectural planning, and installation of capital facilities consisting of buildings, structures, and durable equipment and for the acquisition and improvement of real property and interest in real property required, or expected to be required, in connection with the public facilities, for use by the county for the furnishing of governmental services to its citizens, including but not limited to museums and nursing homes.

(j) The Department may promulgate rules to implement this amendatory Act of the 95th General Assembly only to the extent necessary to apply the existing rules for the Special County Retailers' Occupation Tax for Public Safety to this new purpose for public facilities.

(Source: P.A. 94-781, eff. 5-19-06; 95-474, eff. 1-1-08; 95-1002, eff. 11-20-08.)

(55 ILCS 5/5-1035.1) (from Ch. 34, par. 5-1035.1)

Sec. 5-1035.1. County Motor Fuel Tax Law. The county board of the counties of DuPage, Kane and McHenry may, by an ordinance or resolution adopted by an affirmative vote of a majority of the members elected or appointed to the county board, impose a tax upon all persons engaged in the county in the business of selling motor fuel, as now or hereafter defined in the Motor Fuel Tax Law, at retail for the operation of motor vehicles upon public highways or for the operation of recreational watercraft upon waterways. Kane County may exempt diesel fuel from the tax imposed pursuant to this Section. The tax may be imposed, in half-cent increments, at a rate not exceeding 4 cents per gallon of motor fuel sold at retail within the county for the purpose of use or consumption and not for the purpose of resale. The proceeds from the tax shall be used by the county solely for the purpose of operating, constructing and improving public highways and waterways, and acquiring real property and right-of-ways for public highways and waterways within the county imposing the tax.

A tax imposed pursuant to this Section, and all civil penalties that may be assessed as an incident thereof, shall be administered, collected and enforced by the Illinois Department of Revenue in the same manner as the tax imposed under the Retailers' Occupation Tax Act, as now or hereafter amended, insofar as may be practicable; except that in the event of a conflict with the provisions of this Section, this Section shall control. The Department of Revenue shall have full power: to administer and enforce this Section; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder.

Whenever the Department determines that a refund shall be made under this Section to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified, and to the person named, in the notification from the Department. The refund shall be paid by the State Treasurer out of the County Option Motor Fuel Tax Fund.

The Department shall forthwith pay over to the State Treasurer, ex-officio, as trustee, all taxes and penalties collected hereunder, which shall be deposited into the County Option Motor Fuel Tax Fund, a special fund in the State Treasury which is hereby created. On or before the 25th day of each calendar month, the Department shall prepare and certify to the State Comptroller the disbursement of stated sums of money to named counties for which taxpayers have paid taxes or penalties hereunder to the Department during the second preceding calendar month. The amount to be paid to each county shall be the amount (not including credit memoranda) collected hereunder from retailers within the county during the second preceding calendar month by the Department, but not including an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of the county; less the amount expended during the second preceding month by the Department pursuant to appropriation from the County Option Motor Fuel Tax Fund for the administration and enforcement of this Section, which appropriation shall not exceed \$200,000 for fiscal year 1990 and, for each year thereafter, shall not exceed 2% of the amount deposited into the County Option Motor Fuel Tax Fund during the preceding fiscal year.

A county may direct, by ordinance, that all or a portion of the taxes and penalties collected under the County Option Motor Fuel Tax shall be deposited into the Transportation Development Partnership Trust Fund.

Nothing in this Section shall be construed to authorize a county to impose a tax upon the privilege of engaging in any business which under the Constitution of the United States may not be made the subject of taxation by this State.

An ordinance or resolution imposing a tax hereunder or effecting a change in the rate thereof shall be effective on the first day of the second calendar month next following the month in which the ordinance or resolution is adopted and a certified copy thereof is filed with the Department of Revenue, whereupon the

Department of Revenue shall proceed to administer and enforce this Section on behalf of the county as of the effective date of the ordinance or resolution. Upon a change in rate of a tax levied hereunder, or upon the discontinuance of the tax, the county board of the county shall, on or not later than 5 days after the effective date of the ordinance or resolution discontinuing the tax or effecting a change in rate, transmit to the Department of Revenue a certified copy of the ordinance or resolution effecting the change or discontinuance.

This Section shall be known and may be cited as the County Motor Fuel Tax Law.
(Source: P.A. 86-1028; 87-289.)

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

The foregoing message from the Senate reporting Senate Amendments numbered 1, 2 and 3 to HOUSE BILL 1322 was placed on the Calendar on the order of Concurrence.

A message from the Senate by
Ms. Rock, Secretary:

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

HOUSE BILL 751

A bill for AN ACT concerning health.

Together with the attached amendment thereto (which amendment has been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 751

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 751 on page 11, by replacing lines 4 through 8 with the following:

"(d) The purposes for which the net proceeds from a sale of real estate as provided in this Section may be used include, but are not limited to, the following:

(1) Providing for individuals with developmental disabilities and mental health needs the services and supports described in subsection (e) of Section 4.4.

(2) In the case of the closure of a mental health facility, the construction of a new facility to serve the needs of persons with mental health needs.

(3) In the case of the closure of a developmental disabilities facility, construction of a new facility to serve the needs of persons with developmental disabilities needs."

The foregoing message from the Senate reporting Senate Amendment No. 1 to HOUSE BILL 751 was placed on the Calendar on the order of Concurrence.

A message from the Senate by
Ms. Rock, Secretary:

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

HOUSE BILL 436

A bill for AN ACT concerning finance.

Together with the attached amendment thereto (which amendment has been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 436

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 436 by replacing everything after the enacting clause with the following:

"Section 5. The Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois is amended by adding Section 605-416 as follows:

(20 ILCS 605/605-416 new)

Sec. 605-416. Loans to qualified ex-offenders.

(a) The Department of Commerce and Economic Opportunity may establish an ex-offender business ownership grant and loan program. Funding for this program shall come from the Ex-Offender Fund. The Department shall provide grants to organizations and entities that work with ex-offenders and facilitate the reentry of ex-offenders into society. Organizations wishing to participate in the program must present an application to the Department in order to receive funding.

(b) Funding distributed from the Ex-Offender Fund may be used only for the following purposes:

(1) For the awarding of grants to organizations and entities to provide low interest loans to ex-offenders so that these individuals may start and operate their own businesses that have a positive impact on society. The maximum amount of a loan funded by a grant under this Section that an ex-offender may receive is \$5,000.

(2) For the awarding of grants to entities or organizations assisting ex-offenders, so that individual ex-offenders may develop business plans to start up their own businesses. These grants are to be used for the sole purpose of acquiring a business plan developed by a credible source. In order to receive these grants, qualified ex-offenders must submit an application and provide 50% of the cost to develop the business plan.

(3) For the administration costs of the program.

(c) For purposes of this Section, "qualified ex-offender" means any person who:

(1) is an eligible offender, as defined under Section 5-5.5-5 of the Unified Code of Corrections;

(2) was sentenced to a period of incarceration in an Illinois adult correctional center; and

(3) presents an application and a professional business plan to the organization or entity that is making the loan.

Section 10. The State Finance Act is amended by adding Section 5.719 as follows:

(30 ILCS 105/5.719 new)

Sec. 5.719. The Ex-Offender Fund.

Section 99. Effective date. This Act takes effect January 1, 2010."

The foregoing message from the Senate reporting Senate Amendment No. 1 to HOUSE BILL 436 was placed on the Calendar on the order of Concurrence.

A message from the Senate by

Ms. Rock, Secretary:

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

HOUSE BILL 547

A bill for AN ACT concerning State government.

Together with the attached amendment thereto (which amendment has been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 547

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 547 on page 2, line 14, after "applications", by inserting "and".

The foregoing message from the Senate reporting Senate Amendment No. 1 to HOUSE BILL 547 was placed on the Calendar on the order of Concurrence.

A message from the Senate by

Ms. Rock, Secretary:

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

HOUSE BILL 519

A bill for AN ACT concerning public employee benefits.

Together with the attached amendment thereto (which amendment has been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 519

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 519, on page 1, line 12, after "General", by inserting "an investigator for the Department of Revenue"; and on page 2, line 19, after "General", by inserting "an investigator for the Department of Revenue"; and on page 4, line 15, after "General", by inserting "an investigator for the Department of Revenue"; and on page 5, line 22, after "General", by inserting "an investigator for the Department of Revenue"; and on page 22, line 15, after "General", by inserting "or an investigator for the Department of Revenue"; and on page 23, line 7, after "General", by inserting "an investigator for the Department of Revenue".

The foregoing message from the Senate reporting Senate Amendment No. 1 to HOUSE BILL 519 was placed on the Calendar on the order of Concurrence.

A message from the Senate by

Ms. Rock, Secretary:

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

HOUSE BILL 489

A bill for AN ACT concerning deferred compensation.

Together with the attached amendments thereto (which amendments have been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 489

Senate Amendment No. 2 to HOUSE BILL NO. 489

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 489 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Pension Code is amended by changing Section 24-102 as follows:

(40 ILCS 5/24-102) (from Ch. 108 1/2, par. 24-102)

Sec. 24-102. As used in this Article, "employee" means any person, including a person elected, appointed or under contract, receiving compensation from the State or a unit of local government or school district for personal services rendered, including salaried persons. A health care provider who elects to participate in the State Employees Deferred Compensation Plan established under Section 24-104 of this Code shall, for purposes of that participation, be deemed an "employee" as defined in this Section.

As used in this Article, "health care provider" means a dentist, physician, optometrist, pharmacist, or podiatrist that participates and receives compensation as a provider under the Illinois Public Aid Code, the Children's Health Insurance Act, or the Covering ALL KIDS Health Insurance Act.

As used in this Article, "compensation" includes compensation received in a lump sum for accumulated unused vacation, personal leave or sick leave, with the exception of health care providers. "Compensation" with respect to health care providers is defined under the Illinois Public Aid Code, the Children's Health Insurance Act, or the Covering ALL KIDS Health Insurance Act.

Where applicable, in ~~It~~ no event shall the total of the amount of deferred compensation of an employee set aside in relation to a particular year under the Illinois State Employees Deferred Compensation Plan and the employee's nondeferred compensation for that year exceed the total annual salary or compensation under the existing salary schedule or classification plan applicable to such employee in such year; except

that any compensation received in a lump sum for accumulated unused vacation, personal leave or sick leave shall not be included in the calculation of such totals.

(Source: P.A. 84-878.)

Section 10. The Children's Health Insurance Program Act is amended by adding Section 31 as follows:
(215 ILCS 106/31 new)

Sec. 31. Health care provider participation in State Employees Deferred Compensation Plan. Notwithstanding any other provision of law, a health care provider who participates under the Program may elect, in lieu of receiving direct payment for services provided under the Program, to participate in the State Employees Deferred Compensation Plan adopted under Article 24 of the Illinois Pension Code. A health care provider who elects to participate in the plan does not have a cause of action against the State for any damages allegedly suffered by the provider as a result of any delay by the State in crediting the amount of any contribution to the provider's plan account.

Section 15. The Covering ALL KIDS Health Insurance Act is amended by adding Section 41 as follows:
(215 ILCS 170/41 new)

Sec. 41. Health care provider participation in State Employees Deferred Compensation Plan. Notwithstanding any other provision of law, a health care provider who participates under the Program may elect, in lieu of receiving direct payment for services provided under the Program, to participate in the State Employees Deferred Compensation Plan adopted under Article 24 of the Illinois Pension Code. A health care provider who elects to participate in the plan does not have a cause of action against the State for any damages allegedly suffered by the provider as a result of any delay by the State in crediting the amount of any contribution to the provider's plan account.

Section 20. The Illinois Public Aid Code is amended by changing Section 5-5 as follows:
(305 ILCS 5/5-5) (from Ch. 23, par. 5-5)

Sec. 5-5. Medical services. The Illinois Department, by rule, shall determine the quantity and quality of and the rate of reimbursement for the medical assistance for which payment will be authorized, and the medical services to be provided, which may include all or part of the following: (1) inpatient hospital services; (2) outpatient hospital services; (3) other laboratory and X-ray services; (4) skilled nursing home services; (5) physicians' services whether furnished in the office, the patient's home, a hospital, a skilled nursing home, or elsewhere; (6) medical care, or any other type of remedial care furnished by licensed practitioners; (7) home health care services; (8) private duty nursing service; (9) clinic services; (10) dental services, including prevention and treatment of periodontal disease and dental caries disease for pregnant women; (11) physical therapy and related services; (12) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in the diseases of the eye, or by an optometrist, whichever the person may select; (13) other diagnostic, screening, preventive, and rehabilitative services; (14) transportation and such other expenses as may be necessary; (15) medical treatment of sexual assault survivors, as defined in Section 1a of the Sexual Assault Survivors Emergency Treatment Act, for injuries sustained as a result of the sexual assault, including examinations and laboratory tests to discover evidence which may be used in criminal proceedings arising from the sexual assault; (16) the diagnosis and treatment of sickle cell anemia; and (17) any other medical care, and any other type of remedial care recognized under the laws of this State, but not including abortions, or induced miscarriages or premature births, unless, in the opinion of a physician, such procedures are necessary for the preservation of the life of the woman seeking such treatment, or except an induced premature birth intended to produce a live viable child and such procedure is necessary for the health of the mother or her unborn child. The Illinois Department, by rule, shall prohibit any physician from providing medical assistance to anyone eligible therefor under this Code where such physician has been found guilty of performing an abortion procedure in a wilful and wanton manner upon a woman who was not pregnant at the time such abortion procedure was performed. The term "any other type of remedial care" shall include nursing care and nursing home service for persons who rely on treatment by spiritual means alone through prayer for healing.

Notwithstanding any other provision of this Section, a comprehensive tobacco use cessation program that includes purchasing prescription drugs or prescription medical devices approved by the Food and Drug administration shall be covered under the medical assistance program under this Article for persons who are otherwise eligible for assistance under this Article.

Notwithstanding any other provision of this Code, the Illinois Department may not require, as a condition of payment for any laboratory test authorized under this Article, that a physician's handwritten signature appear on the laboratory test order form. The Illinois Department may, however, impose other appropriate requirements regarding laboratory test order documentation.

The Department of Healthcare and Family Services shall provide the following services to persons

eligible for assistance under this Article who are participating in education, training or employment programs operated by the Department of Human Services as successor to the Department of Public Aid:

- (1) dental services, which shall include but not be limited to prosthodontics; and
- (2) eyeglasses prescribed by a physician skilled in the diseases of the eye, or by an optometrist, whichever the person may select.

The Illinois Department, by rule, may distinguish and classify the medical services to be provided only in accordance with the classes of persons designated in Section 5-2.

The Department of Healthcare and Family Services must provide coverage and reimbursement for amino acid-based elemental formulas, regardless of delivery method, for the diagnosis and treatment of (i) eosinophilic disorders and (ii) short bowel syndrome when the prescribing physician has issued a written order stating that the amino acid-based elemental formula is medically necessary.

The Illinois Department shall authorize the provision of, and shall authorize payment for, screening by low-dose mammography for the presence of occult breast cancer for women 35 years of age or older who are eligible for medical assistance under this Article, as follows:

(A) A baseline mammogram for women 35 to 39 years of age.

(B) An annual mammogram for women 40 years of age or older.

(C) A mammogram at the age and intervals considered medically necessary by the woman's health care provider for women under 40 years of age and having a family history of breast cancer, prior personal history of breast cancer, positive genetic testing, or other risk factors.

(D) A comprehensive ultrasound screening of an entire breast or breasts if a mammogram demonstrates heterogeneous or dense breast tissue, when medically necessary as determined by a physician licensed to practice medicine in all of its branches.

All screenings shall include a physical breast exam, instruction on self-examination and information regarding the frequency of self-examination and its value as a preventative tool. For purposes of this Section, "low-dose mammography" means the x-ray examination of the breast using equipment dedicated specifically for mammography, including the x-ray tube, filter, compression device, and image receptor, with an average radiation exposure delivery of less than one rad per breast for 2 views of an average size breast. The term also includes digital mammography.

On and after July 1, 2008, screening and diagnostic mammography shall be reimbursed at the same rate as the Medicare program's rates, including the increased reimbursement for digital mammography.

The Department shall convene an expert panel including representatives of hospitals, free-standing mammography facilities, and doctors, including radiologists, to establish quality standards. Based on these quality standards, the Department shall provide for bonus payments to mammography facilities meeting the standards for screening and diagnosis. The bonus payments shall be at least 15% higher than the Medicare rates for mammography.

Subject to federal approval, the Department shall establish a rate methodology for mammography at federally qualified health centers and other encounter-rate clinics. These clinics or centers may also collaborate with other hospital-based mammography facilities.

The Department shall establish a methodology to remind women who are age-appropriate for screening mammography, but who have not received a mammogram within the previous 18 months, of the importance and benefit of screening mammography.

The Department shall establish a performance goal for primary care providers with respect to their female patients over age 40 receiving an annual mammogram. This performance goal shall be used to provide additional reimbursement in the form of a quality performance bonus to primary care providers who meet that goal.

The Department shall devise a means of case-managing or patient navigation for beneficiaries diagnosed with breast cancer. This program shall initially operate as a pilot program in areas of the State with the highest incidence of mortality related to breast cancer. At least one pilot program site shall be in the metropolitan Chicago area and at least one site shall be outside the metropolitan Chicago area. An evaluation of the pilot program shall be carried out measuring health outcomes and cost of care for those served by the pilot program compared to similarly situated patients who are not served by the pilot program.

Any medical or health care provider shall immediately recommend, to any pregnant woman who is being provided prenatal services and is suspected of drug abuse or is addicted as defined in the Alcoholism and Other Drug Abuse and Dependency Act, referral to a local substance abuse treatment provider licensed by the Department of Human Services or to a licensed hospital which provides substance abuse treatment services. The Department of Healthcare and Family Services shall assure coverage for the cost of treatment

of the drug abuse or addiction for pregnant recipients in accordance with the Illinois Medicaid Program in conjunction with the Department of Human Services.

All medical providers providing medical assistance to pregnant women under this Code shall receive information from the Department on the availability of services under the Drug Free Families with a Future or any comparable program providing case management services for addicted women, including information on appropriate referrals for other social services that may be needed by addicted women in addition to treatment for addiction.

The Illinois Department, in cooperation with the Departments of Human Services (as successor to the Department of Alcoholism and Substance Abuse) and Public Health, through a public awareness campaign, may provide information concerning treatment for alcoholism and drug abuse and addiction, prenatal health care, and other pertinent programs directed at reducing the number of drug-affected infants born to recipients of medical assistance.

Neither the Department of Healthcare and Family Services nor the Department of Human Services shall sanction the recipient solely on the basis of her substance abuse.

The Illinois Department shall establish such regulations governing the dispensing of health services under this Article as it shall deem appropriate. The Department should seek the advice of formal professional advisory committees appointed by the Director of the Illinois Department for the purpose of providing regular advice on policy and administrative matters, information dissemination and educational activities for medical and health care providers, and consistency in procedures to the Illinois Department.

Notwithstanding any other provision of law, a health care provider under the medical assistance program may elect, in lieu of receiving direct payment for services provided under that program, to participate in the State Employees Deferred Compensation Plan adopted under Article 24 of the Illinois Pension Code. A health care provider who elects to participate in the plan does not have a cause of action against the State for any damages allegedly suffered by the provider as a result of any delay by the State in crediting the amount of any contribution to the provider's plan account.

The Illinois Department may develop and contract with Partnerships of medical providers to arrange medical services for persons eligible under Section 5-2 of this Code. Implementation of this Section may be by demonstration projects in certain geographic areas. The Partnership shall be represented by a sponsor organization. The Department, by rule, shall develop qualifications for sponsors of Partnerships. Nothing in this Section shall be construed to require that the sponsor organization be a medical organization.

The sponsor must negotiate formal written contracts with medical providers for physician services, inpatient and outpatient hospital care, home health services, treatment for alcoholism and substance abuse, and other services determined necessary by the Illinois Department by rule for delivery by Partnerships. Physician services must include prenatal and obstetrical care. The Illinois Department shall reimburse medical services delivered by Partnership providers to clients in target areas according to provisions of this Article and the Illinois Health Finance Reform Act, except that:

- (1) Physicians participating in a Partnership and providing certain services, which shall be determined by the Illinois Department, to persons in areas covered by the Partnership may receive an additional surcharge for such services.
- (2) The Department may elect to consider and negotiate financial incentives to encourage the development of Partnerships and the efficient delivery of medical care.
- (3) Persons receiving medical services through Partnerships may receive medical and case management services above the level usually offered through the medical assistance program.

Medical providers shall be required to meet certain qualifications to participate in Partnerships to ensure the delivery of high quality medical services. These qualifications shall be determined by rule of the Illinois Department and may be higher than qualifications for participation in the medical assistance program. Partnership sponsors may prescribe reasonable additional qualifications for participation by medical providers, only with the prior written approval of the Illinois Department.

Nothing in this Section shall limit the free choice of practitioners, hospitals, and other providers of medical services by clients. In order to ensure patient freedom of choice, the Illinois Department shall immediately promulgate all rules and take all other necessary actions so that provided services may be accessed from therapeutically certified optometrists to the full extent of the Illinois Optometric Practice Act of 1987 without discriminating between service providers.

The Department shall apply for a waiver from the United States Health Care Financing Administration to allow for the implementation of Partnerships under this Section.

The Illinois Department shall require health care providers to maintain records that document the medical care and services provided to recipients of Medical Assistance under this Article. The Illinois

Department shall require health care providers to make available, when authorized by the patient, in writing, the medical records in a timely fashion to other health care providers who are treating or serving persons eligible for Medical Assistance under this Article. All dispensers of medical services shall be required to maintain and retain business and professional records sufficient to fully and accurately document the nature, scope, details and receipt of the health care provided to persons eligible for medical assistance under this Code, in accordance with regulations promulgated by the Illinois Department. The rules and regulations shall require that proof of the receipt of prescription drugs, dentures, prosthetic devices and eyeglasses by eligible persons under this Section accompany each claim for reimbursement submitted by the dispenser of such medical services. No such claims for reimbursement shall be approved for payment by the Illinois Department without such proof of receipt, unless the Illinois Department shall have put into effect and shall be operating a system of post-payment audit and review which shall, on a sampling basis, be deemed adequate by the Illinois Department to assure that such drugs, dentures, prosthetic devices and eyeglasses for which payment is being made are actually being received by eligible recipients. Within 90 days after the effective date of this amendatory Act of 1984, the Illinois Department shall establish a current list of acquisition costs for all prosthetic devices and any other items recognized as medical equipment and supplies reimbursable under this Article and shall update such list on a quarterly basis, except that the acquisition costs of all prescription drugs shall be updated no less frequently than every 30 days as required by Section 5-5.12.

The rules and regulations of the Illinois Department shall require that a written statement including the required opinion of a physician shall accompany any claim for reimbursement for abortions, or induced miscarriages or premature births. This statement shall indicate what procedures were used in providing such medical services.

The Illinois Department shall require all dispensers of medical services, other than an individual practitioner or group of practitioners, desiring to participate in the Medical Assistance program established under this Article to disclose all financial, beneficial, ownership, equity, surety or other interests in any and all firms, corporations, partnerships, associations, business enterprises, joint ventures, agencies, institutions or other legal entities providing any form of health care services in this State under this Article.

The Illinois Department may require that all dispensers of medical services desiring to participate in the medical assistance program established under this Article disclose, under such terms and conditions as the Illinois Department may by rule establish, all inquiries from clients and attorneys regarding medical bills paid by the Illinois Department, which inquiries could indicate potential existence of claims or liens for the Illinois Department.

Enrollment of a vendor that provides non-emergency medical transportation, defined by the Department by rule, shall be conditional for 180 days. During that time, the Department of Healthcare and Family Services may terminate the vendor's eligibility to participate in the medical assistance program without cause. That termination of eligibility is not subject to the Department's hearing process.

The Illinois Department shall establish policies, procedures, standards and criteria by rule for the acquisition, repair and replacement of orthotic and prosthetic devices and durable medical equipment. Such rules shall provide, but not be limited to, the following services: (1) immediate repair or replacement of such devices by recipients without medical authorization; and (2) rental, lease, purchase or lease-purchase of durable medical equipment in a cost-effective manner, taking into consideration the recipient's medical prognosis, the extent of the recipient's needs, and the requirements and costs for maintaining such equipment. Such rules shall enable a recipient to temporarily acquire and use alternative or substitute devices or equipment pending repairs or replacements of any device or equipment previously authorized for such recipient by the Department.

The Department shall execute, relative to the nursing home prescreening project, written inter-agency agreements with the Department of Human Services and the Department on Aging, to effect the following: (i) intake procedures and common eligibility criteria for those persons who are receiving non-institutional services; and (ii) the establishment and development of non-institutional services in areas of the State where they are not currently available or are undeveloped.

The Illinois Department shall develop and operate, in cooperation with other State Departments and agencies and in compliance with applicable federal laws and regulations, appropriate and effective systems of health care evaluation and programs for monitoring of utilization of health care services and facilities, as it affects persons eligible for medical assistance under this Code.

The Illinois Department shall report annually to the General Assembly, no later than the second Friday in April of 1979 and each year thereafter, in regard to:

- (a) actual statistics and trends in utilization of medical services by public aid

- recipients;
- (b) actual statistics and trends in the provision of the various medical services by medical vendors;
- (c) current rate structures and proposed changes in those rate structures for the various medical vendors; and
- (d) efforts at utilization review and control by the Illinois Department.

The period covered by each report shall be the 3 years ending on the June 30 prior to the report. The report shall include suggested legislation for consideration by the General Assembly. The filing of one copy of the report with the Speaker, one copy with the Minority Leader and one copy with the Clerk of the House of Representatives, one copy with the President, one copy with the Minority Leader and one copy with the Secretary of the Senate, one copy with the Legislative Research Unit, and such additional copies with the State Government Report Distribution Center for the General Assembly as is required under paragraph (t) of Section 7 of the State Library Act shall be deemed sufficient to comply with this Section.

Rulemaking authority to implement this amendatory Act of the 95th General Assembly, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

(Source: P.A. 95-331, eff. 8-21-07; 95-520, eff. 8-28-07; 95-1045, eff. 3-27-09.)

Section 99. Effective date. This Act takes effect January 1, 2010."

AMENDMENT NO. 2. Amend House Bill 489 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Pension Code is amended by changing Section 24-102 and adding Section 24-104.2 as follows:

(40 ILCS 5/24-102) (from Ch. 108 1/2, par. 24-102)

Sec. 24-102. As used in this Article, "employee" means any person, including a person elected, appointed or under contract, receiving compensation from the State or a unit of local government or school district for personal services rendered, including salaried persons. A health care provider who elects to participate in the State Employees Deferred Compensation Plan established under Section 24-104 of this Code shall, for purposes of that participation, be deemed an "employee" as defined in this Section.

As used in this Article, "health care provider" means a dentist, physician, optometrist, pharmacist, or podiatrist that participates and receives compensation as a provider under the Illinois Public Aid Code, the Children's Health Insurance Act, or the Covering ALL KIDS Health Insurance Act.

As used in this Article, "compensation" includes compensation received in a lump sum for accumulated unused vacation, personal leave or sick leave, with the exception of health care providers. "Compensation" with respect to health care providers is defined under the Illinois Public Aid Code, the Children's Health Insurance Act, or the Covering ALL KIDS Health Insurance Act.

Where applicable, in ~~the~~ no event shall the total of the amount of deferred compensation of an employee set aside in relation to a particular year under the Illinois State Employees Deferred Compensation Plan and the employee's nondeferred compensation for that year exceed the total annual salary or compensation under the existing salary schedule or classification plan applicable to such employee in such year; except that any compensation received in a lump sum for accumulated unused vacation, personal leave or sick leave shall not be included in the calculation of such totals.

(Source: P.A. 84-878.)

(40 ILCS 5/24-104.2 new)

Sec. 24-104.2. Health care providers: tax-exempt status. Health care providers may participate in the Illinois State Employees Deferred Compensation Plan to the extent that the health care providers' participation does not interfere with the Plan's tax-exempt status under the Internal Revenue Code.

Section 10. The Children's Health Insurance Program Act is amended by adding Section 31 as follows:

(215 ILCS 106/31 new)

Sec. 31. Health care provider participation in State Employees Deferred Compensation Plan. Notwithstanding any other provision of law, a health care provider who participates under the Program may elect, in lieu of receiving direct payment for services provided under the Program, to participate in the State Employees Deferred Compensation Plan adopted under Article 24 of the Illinois Pension Code. A health care provider who elects to participate in the plan does not have a cause of action against the State for any damages allegedly suffered by the provider as a result of any delay by the State in crediting the amount of any contribution to the provider's plan account.

Section 15. The Covering ALL KIDS Health Insurance Act is amended by adding Section 41 as follows:
(215 ILCS 170/41 new)

Sec. 41. Health care provider participation in State Employees Deferred Compensation Plan. Notwithstanding any other provision of law, a health care provider who participates under the Program may elect, in lieu of receiving direct payment for services provided under the Program, to participate in the State Employees Deferred Compensation Plan adopted under Article 24 of the Illinois Pension Code. A health care provider who elects to participate in the plan does not have a cause of action against the State for any damages allegedly suffered by the provider as a result of any delay by the State in crediting the amount of any contribution to the provider's plan account.

Section 20. The Illinois Public Aid Code is amended by changing Section 5-5 as follows:
(305 ILCS 5/5-5) (from Ch. 23, par. 5-5)

Sec. 5-5. Medical services. The Illinois Department, by rule, shall determine the quantity and quality of and the rate of reimbursement for the medical assistance for which payment will be authorized, and the medical services to be provided, which may include all or part of the following: (1) inpatient hospital services; (2) outpatient hospital services; (3) other laboratory and X-ray services; (4) skilled nursing home services; (5) physicians' services whether furnished in the office, the patient's home, a hospital, a skilled nursing home, or elsewhere; (6) medical care, or any other type of remedial care furnished by licensed practitioners; (7) home health care services; (8) private duty nursing service; (9) clinic services; (10) dental services, including prevention and treatment of periodontal disease and dental caries disease for pregnant women; (11) physical therapy and related services; (12) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in the diseases of the eye, or by an optometrist, whichever the person may select; (13) other diagnostic, screening, preventive, and rehabilitative services; (14) transportation and such other expenses as may be necessary; (15) medical treatment of sexual assault survivors, as defined in Section 1a of the Sexual Assault Survivors Emergency Treatment Act, for injuries sustained as a result of the sexual assault, including examinations and laboratory tests to discover evidence which may be used in criminal proceedings arising from the sexual assault; (16) the diagnosis and treatment of sickle cell anemia; and (17) any other medical care, and any other type of remedial care recognized under the laws of this State, but not including abortions, or induced miscarriages or premature births, unless, in the opinion of a physician, such procedures are necessary for the preservation of the life of the woman seeking such treatment, or except an induced premature birth intended to produce a live viable child and such procedure is necessary for the health of the mother or her unborn child. The Illinois Department, by rule, shall prohibit any physician from providing medical assistance to anyone eligible therefor under this Code where such physician has been found guilty of performing an abortion procedure in a wilful and wanton manner upon a woman who was not pregnant at the time such abortion procedure was performed. The term "any other type of remedial care" shall include nursing care and nursing home service for persons who rely on treatment by spiritual means alone through prayer for healing.

Notwithstanding any other provision of this Section, a comprehensive tobacco use cessation program that includes purchasing prescription drugs or prescription medical devices approved by the Food and Drug administration shall be covered under the medical assistance program under this Article for persons who are otherwise eligible for assistance under this Article.

Notwithstanding any other provision of this Code, the Illinois Department may not require, as a condition of payment for any laboratory test authorized under this Article, that a physician's handwritten signature appear on the laboratory test order form. The Illinois Department may, however, impose other appropriate requirements regarding laboratory test order documentation.

The Department of Healthcare and Family Services shall provide the following services to persons eligible for assistance under this Article who are participating in education, training or employment programs operated by the Department of Human Services as successor to the Department of Public Aid:

- (1) dental services, which shall include but not be limited to prosthodontics; and
- (2) eyeglasses prescribed by a physician skilled in the diseases of the eye, or by an optometrist, whichever the person may select.

The Illinois Department, by rule, may distinguish and classify the medical services to be provided only in accordance with the classes of persons designated in Section 5-2.

The Department of Healthcare and Family Services must provide coverage and reimbursement for amino acid-based elemental formulas, regardless of delivery method, for the diagnosis and treatment of (i) eosinophilic disorders and (ii) short bowel syndrome when the prescribing physician has issued a written order stating that the amino acid-based elemental formula is medically necessary.

The Illinois Department shall authorize the provision of, and shall authorize payment for, screening by

low-dose mammography for the presence of occult breast cancer for women 35 years of age or older who are eligible for medical assistance under this Article, as follows:

(A) A baseline mammogram for women 35 to 39 years of age.

(B) An annual mammogram for women 40 years of age or older.

(C) A mammogram at the age and intervals considered medically necessary by the woman's health care provider for women under 40 years of age and having a family history of breast cancer, prior personal history of breast cancer, positive genetic testing, or other risk factors.

(D) A comprehensive ultrasound screening of an entire breast or breasts if a mammogram demonstrates heterogeneous or dense breast tissue, when medically necessary as determined by a physician licensed to practice medicine in all of its branches.

All screenings shall include a physical breast exam, instruction on self-examination and information regarding the frequency of self-examination and its value as a preventative tool. For purposes of this Section, "low-dose mammography" means the x-ray examination of the breast using equipment dedicated specifically for mammography, including the x-ray tube, filter, compression device, and image receptor, with an average radiation exposure delivery of less than one rad per breast for 2 views of an average size breast. The term also includes digital mammography.

On and after July 1, 2008, screening and diagnostic mammography shall be reimbursed at the same rate as the Medicare program's rates, including the increased reimbursement for digital mammography.

The Department shall convene an expert panel including representatives of hospitals, free-standing mammography facilities, and doctors, including radiologists, to establish quality standards. Based on these quality standards, the Department shall provide for bonus payments to mammography facilities meeting the standards for screening and diagnosis. The bonus payments shall be at least 15% higher than the Medicare rates for mammography.

Subject to federal approval, the Department shall establish a rate methodology for mammography at federally qualified health centers and other encounter-rate clinics. These clinics or centers may also collaborate with other hospital-based mammography facilities.

The Department shall establish a methodology to remind women who are age-appropriate for screening mammography, but who have not received a mammogram within the previous 18 months, of the importance and benefit of screening mammography.

The Department shall establish a performance goal for primary care providers with respect to their female patients over age 40 receiving an annual mammogram. This performance goal shall be used to provide additional reimbursement in the form of a quality performance bonus to primary care providers who meet that goal.

The Department shall devise a means of case-managing or patient navigation for beneficiaries diagnosed with breast cancer. This program shall initially operate as a pilot program in areas of the State with the highest incidence of mortality related to breast cancer. At least one pilot program site shall be in the metropolitan Chicago area and at least one site shall be outside the metropolitan Chicago area. An evaluation of the pilot program shall be carried out measuring health outcomes and cost of care for those served by the pilot program compared to similarly situated patients who are not served by the pilot program.

Any medical or health care provider shall immediately recommend, to any pregnant woman who is being provided prenatal services and is suspected of drug abuse or is addicted as defined in the Alcoholism and Other Drug Abuse and Dependency Act, referral to a local substance abuse treatment provider licensed by the Department of Human Services or to a licensed hospital which provides substance abuse treatment services. The Department of Healthcare and Family Services shall assure coverage for the cost of treatment of the drug abuse or addiction for pregnant recipients in accordance with the Illinois Medicaid Program in conjunction with the Department of Human Services.

All medical providers providing medical assistance to pregnant women under this Code shall receive information from the Department on the availability of services under the Drug Free Families with a Future or any comparable program providing case management services for addicted women, including information on appropriate referrals for other social services that may be needed by addicted women in addition to treatment for addiction.

The Illinois Department, in cooperation with the Departments of Human Services (as successor to the Department of Alcoholism and Substance Abuse) and Public Health, through a public awareness campaign, may provide information concerning treatment for alcoholism and drug abuse and addiction, prenatal health care, and other pertinent programs directed at reducing the number of drug-affected infants born to recipients of medical assistance.

Neither the Department of Healthcare and Family Services nor the Department of Human Services shall sanction the recipient solely on the basis of her substance abuse.

The Illinois Department shall establish such regulations governing the dispensing of health services under this Article as it shall deem appropriate. The Department should seek the advice of formal professional advisory committees appointed by the Director of the Illinois Department for the purpose of providing regular advice on policy and administrative matters, information dissemination and educational activities for medical and health care providers, and consistency in procedures to the Illinois Department.

Notwithstanding any other provision of law, a health care provider under the medical assistance program may elect, in lieu of receiving direct payment for services provided under that program, to participate in the State Employees Deferred Compensation Plan adopted under Article 24 of the Illinois Pension Code. A health care provider who elects to participate in the plan does not have a cause of action against the State for any damages allegedly suffered by the provider as a result of any delay by the State in crediting the amount of any contribution to the provider's plan account.

The Illinois Department may develop and contract with Partnerships of medical providers to arrange medical services for persons eligible under Section 5-2 of this Code. Implementation of this Section may be by demonstration projects in certain geographic areas. The Partnership shall be represented by a sponsor organization. The Department, by rule, shall develop qualifications for sponsors of Partnerships. Nothing in this Section shall be construed to require that the sponsor organization be a medical organization.

The sponsor must negotiate formal written contracts with medical providers for physician services, inpatient and outpatient hospital care, home health services, treatment for alcoholism and substance abuse, and other services determined necessary by the Illinois Department by rule for delivery by Partnerships. Physician services must include prenatal and obstetrical care. The Illinois Department shall reimburse medical services delivered by Partnership providers to clients in target areas according to provisions of this Article and the Illinois Health Finance Reform Act, except that:

- (1) Physicians participating in a Partnership and providing certain services, which shall be determined by the Illinois Department, to persons in areas covered by the Partnership may receive an additional surcharge for such services.
- (2) The Department may elect to consider and negotiate financial incentives to encourage the development of Partnerships and the efficient delivery of medical care.
- (3) Persons receiving medical services through Partnerships may receive medical and case management services above the level usually offered through the medical assistance program.

Medical providers shall be required to meet certain qualifications to participate in Partnerships to ensure the delivery of high quality medical services. These qualifications shall be determined by rule of the Illinois Department and may be higher than qualifications for participation in the medical assistance program. Partnership sponsors may prescribe reasonable additional qualifications for participation by medical providers, only with the prior written approval of the Illinois Department.

Nothing in this Section shall limit the free choice of practitioners, hospitals, and other providers of medical services by clients. In order to ensure patient freedom of choice, the Illinois Department shall immediately promulgate all rules and take all other necessary actions so that provided services may be accessed from therapeutically certified optometrists to the full extent of the Illinois Optometric Practice Act of 1987 without discriminating between service providers.

The Department shall apply for a waiver from the United States Health Care Financing Administration to allow for the implementation of Partnerships under this Section.

The Illinois Department shall require health care providers to maintain records that document the medical care and services provided to recipients of Medical Assistance under this Article. The Illinois Department shall require health care providers to make available, when authorized by the patient, in writing, the medical records in a timely fashion to other health care providers who are treating or serving persons eligible for Medical Assistance under this Article. All dispensers of medical services shall be required to maintain and retain business and professional records sufficient to fully and accurately document the nature, scope, details and receipt of the health care provided to persons eligible for medical assistance under this Code, in accordance with regulations promulgated by the Illinois Department. The rules and regulations shall require that proof of the receipt of prescription drugs, dentures, prosthetic devices and eyeglasses by eligible persons under this Section accompany each claim for reimbursement submitted by the dispenser of such medical services. No such claims for reimbursement shall be approved for payment by the Illinois Department without such proof of receipt, unless the Illinois Department shall have put into effect and shall be operating a system of post-payment audit and review which shall, on a sampling basis, be deemed adequate by the Illinois Department to assure that such drugs, dentures,

prosthetic devices and eyeglasses for which payment is being made are actually being received by eligible recipients. Within 90 days after the effective date of this amendatory Act of 1984, the Illinois Department shall establish a current list of acquisition costs for all prosthetic devices and any other items recognized as medical equipment and supplies reimbursable under this Article and shall update such list on a quarterly basis, except that the acquisition costs of all prescription drugs shall be updated no less frequently than every 30 days as required by Section 5-5.12.

The rules and regulations of the Illinois Department shall require that a written statement including the required opinion of a physician shall accompany any claim for reimbursement for abortions, or induced miscarriages or premature births. This statement shall indicate what procedures were used in providing such medical services.

The Illinois Department shall require all dispensers of medical services, other than an individual practitioner or group of practitioners, desiring to participate in the Medical Assistance program established under this Article to disclose all financial, beneficial, ownership, equity, surety or other interests in any and all firms, corporations, partnerships, associations, business enterprises, joint ventures, agencies, institutions or other legal entities providing any form of health care services in this State under this Article.

The Illinois Department may require that all dispensers of medical services desiring to participate in the medical assistance program established under this Article disclose, under such terms and conditions as the Illinois Department may by rule establish, all inquiries from clients and attorneys regarding medical bills paid by the Illinois Department, which inquiries could indicate potential existence of claims or liens for the Illinois Department.

Enrollment of a vendor that provides non-emergency medical transportation, defined by the Department by rule, shall be conditional for 180 days. During that time, the Department of Healthcare and Family Services may terminate the vendor's eligibility to participate in the medical assistance program without cause. That termination of eligibility is not subject to the Department's hearing process.

The Illinois Department shall establish policies, procedures, standards and criteria by rule for the acquisition, repair and replacement of orthotic and prosthetic devices and durable medical equipment. Such rules shall provide, but not be limited to, the following services: (1) immediate repair or replacement of such devices by recipients without medical authorization; and (2) rental, lease, purchase or lease-purchase of durable medical equipment in a cost-effective manner, taking into consideration the recipient's medical prognosis, the extent of the recipient's needs, and the requirements and costs for maintaining such equipment. Such rules shall enable a recipient to temporarily acquire and use alternative or substitute devices or equipment pending repairs or replacements of any device or equipment previously authorized for such recipient by the Department.

The Department shall execute, relative to the nursing home prescreening project, written inter-agency agreements with the Department of Human Services and the Department on Aging, to effect the following: (i) intake procedures and common eligibility criteria for those persons who are receiving non-institutional services; and (ii) the establishment and development of non-institutional services in areas of the State where they are not currently available or are undeveloped.

The Illinois Department shall develop and operate, in cooperation with other State Departments and agencies and in compliance with applicable federal laws and regulations, appropriate and effective systems of health care evaluation and programs for monitoring of utilization of health care services and facilities, as it affects persons eligible for medical assistance under this Code.

The Illinois Department shall report annually to the General Assembly, no later than the second Friday in April of 1979 and each year thereafter, in regard to:

- (a) actual statistics and trends in utilization of medical services by public aid recipients;
- (b) actual statistics and trends in the provision of the various medical services by medical vendors;
- (c) current rate structures and proposed changes in those rate structures for the various medical vendors; and
- (d) efforts at utilization review and control by the Illinois Department.

The period covered by each report shall be the 3 years ending on the June 30 prior to the report. The report shall include suggested legislation for consideration by the General Assembly. The filing of one copy of the report with the Speaker, one copy with the Minority Leader and one copy with the Clerk of the House of Representatives, one copy with the President, one copy with the Minority Leader and one copy with the Secretary of the Senate, one copy with the Legislative Research Unit, and such additional copies with the State Government Report Distribution Center for the General Assembly as is required under

paragraph (t) of Section 7 of the State Library Act shall be deemed sufficient to comply with this Section.

Rulemaking authority to implement this amendatory Act of the 95th General Assembly, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

(Source: P.A. 95-331, eff. 8-21-07; 95-520, eff. 8-28-07; 95-1045, eff. 3-27-09.)

Section 99. Effective date. This Act takes effect July 1, 2010."

The foregoing message from the Senate reporting Senate Amendments numbered 1 and 2 to HOUSE BILL 489 was placed on the Calendar on the order of Concurrence.

A message from the Senate by

Ms. Rock, Secretary:

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

HOUSE BILL 237

A bill for AN ACT concerning finance.

Together with the attached amendment thereto (which amendment has been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 237

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 237 on page 1, by replacing line 5 with the following:
"changing Sections 1 and 3-2 as follows:

(30 ILCS 540/1) (from Ch. 127, par. 132.401)

Sec. 1. This Act applies to any State official or agency authorized to provide for payment from State funds, by virtue of any appropriation of the General Assembly, for goods or services furnished to the State.

For purposes of this Act, "goods or services furnished to the State" include but are not limited to (i) covered health care provided to eligible members and their covered dependents in accordance with the State Employees Group Insurance Act of 1971, including coverage through a physician-owned health maintenance organization under Section 6.1 of that Act, and (ii) prevention, intervention, or treatment services and supports for persons with developmental disabilities, mental health services, alcohol and substance abuse services, rehabilitation services, and early intervention services provided by a vendor. For the purposes of item (ii), a vendor includes but is not limited to sellers of goods and services, including community-based organizations that are licensed to provide prevention, intervention, or treatment services and supports for persons with developmental disabilities, mental illness, and substance abuse problems.

For the purposes of this Act, "appropriate State official or agency" is defined as the Director or Chief Executive or his designee of that State agency or department or facility of such agency or department. With respect to covered health care provided to eligible members and their dependents in accordance with the State Employees Group Insurance Act of 1971, "appropriate State official or agency" also includes an administrator of a program of health benefits under that Act.

As used in this Act, "eligible member" means a member who is eligible for health benefits under the State Employees Group Insurance Act of 1971, and "member" and "dependent" have the meanings ascribed to those terms in that Act.

As used in this Act, "a proper bill or invoice" means a bill or invoice that includes the information necessary for processing the payment as may be specified by a State agency and in rules adopted in accordance with this Act.

(Source: P.A. 91-266, eff. 7-23-99; 92-384, eff. 7-1-02.); and

on page 2, line 2, by replacing "30" with "60"; and

on page 2, line 4, by replacing "30-day" with "60-day"; and

on page 2, line 6, by replacing "30-day" with "60-day".

The foregoing message from the Senate reporting Senate Amendment No. 1 to HOUSE BILL 237 was placed on the Calendar on the order of Concurrence.

A message from the Senate by
 Ms. Rock, Secretary:
 Mr. Speaker -- I am directed to inform the House of Representatives that the Senate has concurred with the House of Representatives in the passage of a bill of the following title to-wit:

HOUSE BILL 470

A bill for AN ACT concerning liquor.
 Together with the attached amendments thereto (which amendments have been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:
 Senate Amendment No. 1 to HOUSE BILL NO. 470
 Senate Amendment No. 2 to HOUSE BILL NO. 470
 Senate Amendment No. 3 to HOUSE BILL NO. 470
 Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 470 on page 11, immediately below line 3, by inserting the following:

"(p) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and is within 100 feet of a church if:

(1) the shortest distance between the backdoor of the premises, which is used as an emergency exit, and the church is at least 80 feet;

(2) the church was established at the current location in 1889; and

(3) liquor has been sold on the premises since at least 1985."

AMENDMENT NO. 2. Amend House Bill 470, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Liquor Control Act of 1934 is amended by changing Section 6-11 as follows:

(235 ILCS 5/6-11) (from Ch. 43, par. 127)

Sec. 6-11. Sale near churches, schools, and hospitals.

(a) No license shall be issued for the sale at retail of any alcoholic liquor within 100 feet of any church, school other than an institution of higher learning, hospital, home for aged or indigent persons or for veterans, their spouses or children or any military or naval station, provided, that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops or other places where sale of alcoholic liquors is not the principal business carried on if the place of business so exempted is not located in a municipality of more than 500,000 persons, unless required by local ordinance; nor to the renewal of a license for the sale at retail of alcoholic liquor on premises within 100 feet of any church or school where the church or school has been established within such 100 feet since the issuance of the original license. In the case of a church, the distance of 100 feet shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

(b) Nothing in this Section shall prohibit the issuance of a retail license authorizing the sale of alcoholic liquor to a restaurant, the primary business of which is the sale of goods baked on the premises if (i) the restaurant is newly constructed and located on a lot of not less than 10,000 square feet, (ii) the restaurant costs at least \$1,000,000 to construct, (iii) the licensee is the titleholder to the premises and resides on the premises, and (iv) the construction of the restaurant is completed within 18 months of the effective date of this amendatory Act of 1998.

(c) Nothing in this Section shall prohibit the issuance of a retail license authorizing the sale of alcoholic liquor incidental to a restaurant if (1) the primary business of the restaurant consists of the sale of food where the sale of liquor is incidental to the sale of food and the applicant is a completely new owner of the restaurant, (2) the immediately prior owner or operator of the premises where the restaurant is located operated the premises as a restaurant and held a valid retail license authorizing the sale of alcoholic liquor at the restaurant for at least part of the 24 months before the change of ownership, and (3) the restaurant is located 75 or more feet from a school.

(d) In the interest of further developing Illinois' economy in the area of commerce, tourism, convention, and banquet business, nothing in this Section shall prohibit issuance of a retail license authorizing the sale of alcoholic beverages to a restaurant, banquet facility, grocery store, or hotel having not fewer than 150 guest room accommodations located in a municipality of more than 500,000 persons, notwithstanding the proximity of such hotel, restaurant, banquet facility, or grocery store to any church or school, if the licensed premises described on the license are located within an enclosed mall or building of a height of at least 6 stories, or 60 feet in the case of a building that has been registered as a national landmark, or in a grocery store having a minimum of 56,010 square feet of floor space in a single story building in an open mall of at least 3.96 acres that is adjacent to a public school that opened as a boys technical high school in 1934, or in a grocery store having a minimum of 31,000 square feet of floor space in a single story building located a distance of more than 90 feet but less than 100 feet from a high school that opened in 1928 as a junior high school and became a senior high school in 1933, and in each of these cases if the sale of alcoholic liquors is not the principal business carried on by the licensee.

For purposes of this Section, a "banquet facility" is any part of a building that caters to private parties and where the sale of alcoholic liquors is not the principal business.

(e) Nothing in this Section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors.

(f) Nothing in this Section shall prohibit a church or church affiliated school located in a home rule municipality or in a municipality with 75,000 or more inhabitants from locating within 100 feet of a property for which there is a preexisting license to sell alcoholic liquor at retail. In these instances, the local zoning authority may, by ordinance adopted simultaneously with the granting of an initial special use zoning permit for the church or church affiliated school, provide that the 100-foot restriction in this Section shall not apply to that church or church affiliated school and future retail liquor licenses.

(g) Nothing in this Section shall prohibit the issuance of a retail license authorizing the sale of alcoholic liquor at premises within 100 feet, but not less than 90 feet, of a public school if (1) the premises have been continuously licensed to sell alcoholic liquor for a period of at least 50 years, (2) the premises are located in a municipality having a population of over 500,000 inhabitants, (3) the licensee is an individual who is a member of a family that has held the previous 3 licenses for that location for more than 25 years, (4) the principal of the school and the alderman of the ward in which the school is located have delivered a written statement to the local liquor control commissioner stating that they do not object to the issuance of a license under this subsection (g), and (5) the local liquor control commissioner has received the written consent of a majority of the registered voters who live within 200 feet of the premises.

(h) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor within premises and at an outdoor patio area attached to premises that are located in a municipality with a population in excess of 300,000 inhabitants and that are within 100 feet of a church if:

- (1) the sale of alcoholic liquor at the premises is incidental to the sale of food,
- (2) the sale of liquor is not the principal business carried on by the licensee at the premises,
- (3) the premises are less than 1,000 square feet,
- (4) the premises are owned by the University of Illinois,
- (5) the premises are immediately adjacent to property owned by a church and are not less than 20 nor more than 40 feet from the church space used for worship services, and
- (6) the principal religious leader at the place of worship has indicated his or her support for the issuance of the license in writing.

(i) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license to sell alcoholic liquor at a premises that is located within a municipality with a population in excess of 300,000 inhabitants and is within 100 feet of a church, synagogue, or other place of worship if:

- (1) the primary entrance of the premises and the primary entrance of the church, synagogue, or other place of worship are at least 100 feet apart, on parallel streets, and separated by an alley; and
- (2) the principal religious leader at the place of worship has not indicated his or her opposition to the issuance or renewal of the license in writing.

(j) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance of a retail license authorizing the sale of alcoholic liquor at a theater that is within 100 feet of a

church if (1) the church owns the theater, (2) the church leases the theater to one or more entities, and (3) the theater is used by at least 5 different not-for-profit theater groups.

(k) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and is within 100 feet of a school if:

- (1) the primary entrance of the premises and the primary entrance of the school are parallel, on different streets, and separated by an alley;
- (2) the southeast corner of the premises are at least 350 feet from the southwest corner of the school;

(3) the school was built in 1978;

(4) the sale of alcoholic liquor at the premises is incidental to the sale of food;

(5) the sale of alcoholic liquor is not the principal business carried on by the licensee at the premises;

(6) the applicant is the owner of the restaurant and has held a valid license authorizing the sale of alcoholic liquor for the business to be conducted on the premises at a different location for more than 7 years; and

(7) the premises is at least 2,300 square feet and sits on a lot that is between 6,100 and 6,150 square feet.

(l) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and is within 100 feet of a church or school if:

(1) the primary entrance of the premises and the closest entrance of the church or school is at least 90 feet apart and no greater than 95 feet apart;

(2) the shortest distance between the premises and the church or school is at least 80 feet apart and no greater than 85 feet apart;

(3) the applicant is the owner of the restaurant and on November 15, 2006 held a valid license authorizing the sale of alcoholic liquor for the business to be conducted on the premises for at least 14 different locations;

(4) the sale of alcoholic liquor at the premises is incidental to the sale of food;

(5) the sale of alcoholic liquor is not the principal business carried on by the licensee at the premises;

(6) the premises is at least 3,200 square feet and sits on a lot that is between 7,150 and 7,200 square feet; and

(7) the principal religious leader at the place of worship has not indicated his or her opposition to the issuance or renewal of the license in writing.

(m) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and is within 100 feet of a church if:

(1) the premises and the church are perpendicular, and the primary entrance of the premises faces South while the primary entrance of the church faces West and the distance between the two entrances is more than 100 feet;

(2) the shortest distance between the premises lot line and the exterior wall of the church is at least 80 feet;

(3) the church was established at the current location in 1916 and the present structure was erected in 1925;

(4) the premises is a single story, single use building with at least 1,750 square feet and no more than 2,000 square feet;

(5) the sale of alcoholic liquor at the premises is incidental to the sale of food;

(6) the sale of alcoholic liquor is not the principal business carried on by the licensee at the premises; and

(7) the principal religious leader at the place of worship has not indicated his or her opposition to the issuance or renewal of the license in writing.

(n) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises

that is located within a municipality with a population in excess of 1,000,000 inhabitants and is within 100 feet of a school if:

- (1) the school is a City of Chicago School District 299 school;
- (2) the school is located within subarea E of City of Chicago Residential Business Planned Development Number 70;
- (3) the sale of alcoholic liquor is not the principal business carried on by the licensee on the premises;
- (4) the sale of alcoholic liquor at the premises is incidental to the sale of food; and
- (5) the administration of City of Chicago School District 299 has expressed, in writing, its support for the issuance of the license.

(o) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a retail license authorizing the sale of alcoholic liquor at a premises that is located within a municipality in excess of 1,000,000 inhabitants and within 100 feet of a church if:

- (1) the sale of alcoholic liquor at the premises is incidental to the sale of food;
- (2) the sale of alcoholic liquor is not the principal business carried on by the licensee at the premises;
- (3) the premises is located on a street that runs perpendicular to the street on which the church is located;
- (4) the primary entrance of the premises is at least 100 feet from the primary entrance of the church;
- (5) the shortest distance between any part of the premises and any part of the church is at least 60 feet;
- (6) the premises is between 3,600 and 4,000 square feet and sits on a lot that is between 3,600 and 4,000 square feet; and
- (7) the premises was built in the year 1909.

For purposes of this subsection (o), "premises" means a place of business together with a privately owned outdoor location that is adjacent to the place of business.

(p) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and within 100 feet of a church if:

- (1) the shortest distance between the backdoor of the premises, which is used as an emergency exit, and the church is at least 80 feet;
- (2) the church was established at the current location in 1889; and
- (3) liquor has been sold on the premises since at least 1985.

(q) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor within a premises that is located in a municipality with a population in excess of 1,000,000 inhabitants and within 100 feet of a church if:

- (1) the premises is located within a larger building operated as a grocery store;
- (2) the area of the premises does not exceed 720 square feet and the area of the larger building exceeds 18,000 square feet;
- (3) the premises is more than 100 feet from the nearest property line of property on which a church and a church-affiliated school are located;
- (4) the sale of liquor is not the principal business carried on within the larger building;
- (5) the primary entrance of the larger building and the premises and the primary entrance of the school are on different, parallel streets;
- (6) the larger building and the church and church-affiliated school property are separated by an alley;
- (7) the larger building containing the premises and the church building front are on perpendicular streets; and
- (8) the primary entrance of the larger building and the premises faces North while the primary entrance of the church building faces East and the distance between the 2 entrances is more than 100 feet.

(Source: P.A. 94-1103, eff. 2-9-07; 95-331, eff. 8-21-07; 95-752, eff. 1-1-09.)

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

AMENDMENT NO. 3. Amend House Bill 470, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2 as follows:

on page 12, below line 24, by inserting the following:

"(r) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance, renewal, or maintenance of a license authorizing the sale of alcoholic liquor incidental to the sale of food within a restaurant established in a premises that is located in a municipality with a population

in excess of 1,000,000 inhabitants and within 100 feet of a church if:

(1) the primary entrance of the church and the primary entrance of the restaurant are at least 100 feet apart;

(2) the restaurant has operated on the ground floor and lower level of a multi-story, multi-use building for more than 40 years;

(3) the primary business of the restaurant consists of the sale of food where the sale of liquor is incidental to the sale of food;

(4) the sale of alcoholic liquor is conducted primarily in the below-grade level of the restaurant to which the only public access is by a staircase located inside the restaurant; and

(5) the restaurant has held a license authorizing the sale of alcoholic liquor on the premises for more than 40 years."

The foregoing message from the Senate reporting Senate Amendments numbered 1, 2 and 3 to HOUSE BILL 470 was placed on the Calendar on the order of Concurrence.

A message from the Senate by

Ms. Rock, Secretary:

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

HOUSE BILL 182

A bill for AN ACT concerning criminal law.

Together with the attached amendment thereto (which amendment has been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 3 to HOUSE BILL NO. 182

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 3. Amend House Bill 182 on page 2, by replacing lines 10 and 11 with the following:

"abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol,"; and

on page 4, by replacing lines 21 through 23 with the following:

"weapons, or except when on his land or in his own abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any

pistol, revolver, stun"; and

on page 11, by replacing lines 5 through 7 with the following:

"when on his or her land or in his or her abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol,

revolver, stun gun"; and

on page 11, by replacing lines 15 through 17 with the following:

"or in his or her own abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or

taser or other"; and

on page 19, by replacing lines 25 and 26 with the following:

"gun or taser or other firearm on the land or in the legal dwelling of another person as an invitee with that person's permission."

The foregoing message from the Senate reporting Senate Amendment No. 3 to HOUSE BILL 182 was placed on the Calendar on the order of Concurrence.

A message from the Senate by

Ms. Rock, Secretary:

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

HOUSE BILL 170

A bill for AN ACT concerning regulation.

Together with the attached amendment thereto (which amendment has been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 2 to HOUSE BILL NO. 170

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 2. Amend House Bill 170 as follows:

on page 4, line 7, by replacing "A" with "On and after January 1, 2013, a"; and
on page 4, line 19, immediately after "amended", by inserting "before January 1, 2013"; and
on page 8, line 12, by replacing "Construct" with "On and after January 1, 2013, construct"; and
on page 8, by deleting lines 24 and 25.

The foregoing message from the Senate reporting Senate Amendment No. 2 to HOUSE BILL 170 was placed on the Calendar on the order of Concurrence.

A message from the Senate by

Ms. Rock, Secretary:

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

HOUSE BILL 4021

A bill for AN ACT concerning safety.

Together with the attached amendment thereto (which amendment has been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 2 to HOUSE BILL NO. 4021

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 2. Amend House Bill 4021 by replacing everything after the enacting clause with the following:

"Section 5. The Environmental Protection Act is amended by changing Sections 15, 25d-1, 25d-2, 25d-3, 42, and 44 and by adding Section 18.1 as follows:

(415 ILCS 5/15) (from Ch. 111 1/2, par. 1015)

Sec. 15. Plans and specifications; demonstration of capability; record retention.

(a) Owners of public water supplies, their authorized representative, or legal custodians, shall submit plans and specifications to the Agency and obtain written approval before construction of any proposed public water supply installations, changes, or additions is started. Plans and specifications shall be complete and of sufficient detail to show all proposed construction, changes, or additions that may affect sanitary quality, mineral quality, or adequacy of the public water supply; and, where necessary, said plans and specifications shall be accompanied by supplemental data as may be required by the Agency to permit a complete review thereof.

(b) All new public water supplies established after October 1, 1999 shall demonstrate technical, financial, and managerial capacity as a condition for issuance of a construction or operation permit by the Agency or its designee. The demonstration shall be consistent with the technical, financial, and managerial provisions of the federal Safe Drinking Water Act (P.L. 93-523), as now or hereafter amended. The Agency is authorized to adopt rules in accordance with the Illinois Administrative Procedure Act to implement the purposes of this subsection. Such rules must take into account the need for the facility, facility size, sophistication of treatment of the water supply, and financial requirements needed for operation of the facility.

(c) Except as otherwise provided under Board rules, owners and operators of community water systems must maintain all records, reports, and other documents related to the operation of the community water system for a minimum of 10 years. Documents required to be maintained under this subsection (c) include, but are not limited to, all billing records and other documents related to the purchase of water from other

community water systems. Documents required to be maintained under this subsection (c) must be maintained on the premises of the community water system, or at a convenient location near its premises, and must be made available to the Agency for inspection and copying during normal business hours.

(Source: P.A. 92-651, eff. 7-11-02.)

(415 ILCS 5/18.1 new)

Sec. 18.1. Public Notice.

(a) If any of the actions listed in paragraph (1) or (2) of this subsection (a) occur in relation to the ownership or operation of a community water system, the Agency shall, within 2 days after the action, provide public notice of the action by issuing a press release and posting the press release on the Agency's website:

(1) The Agency refers a matter for enforcement under Section 43 of this Act.

(2) The Agency issues a seal order under subsection (a) of Section 34 of this Act.

(b) Within 5 days after the occurrence of any action that is listed in paragraph (1) or (2) of subsection (a) of this Section and that is related to the ownership or operation of a community water system, the Agency must provide notice of the action to the owner and the operator of the community water system and the owners and operators of all connected community water systems. The notice must be printed on Agency letterhead and describe the action being taken and the basis for the action. Within 5 business days after receiving such notice from the Agency under this subsection (b), the owner or operator of the community water system and the owners or operators of all connected community water systems must send, to all residents and owners of premises connected to the affected community water system or portion thereof designated by the Agency: (i) a copy of the notice by first-class mail or by e-mail; or (ii) notification, in a form approved by the Agency, via first-class postcard, text message, or telephone; except that notices to institutional residents, including, but not limited to, residents of school dormitories, nursing homes, and assisted care facilities, may be made to the owners and operators of those institutions, and the owners or operators of those institutions shall notify their residents in the same manner as prescribed in this subsection for owners and operators of community water systems. If the manner for notice selected by the owner or operator of the community water system does not include a written copy of the notice provided by the Agency, the owner or operator shall include a written copy of the notice provided by the Agency in the next water bill sent to the residents and owners of the premises; provided, however, if the water bill is sent on a postcard, no written copy of the notice provided by the Agency is required if the postcard includes the Internet address for the notice posted on the Agency's website. The front of the envelope or postcard in which any such notice is sent to residents and owners of premises connected to the community water system shall carry the following text in at least 18 point font: PUBLIC HEALTH NOTICE - READ IMMEDIATELY. For a postcard, text message, or telephonic communication, the Agency shall specify the minimum information that the owner or operator must include in such methods of notice. Within 7 days after the owner or operator of the community water system sends the notices to all residents and owners of premises connected to the affected community water system, the owner or operator shall provide the Agency with proof that the notices have been sent.

(415 ILCS 5/25d-1)

Sec. 25d-1. Definitions. For the purposes of this Title, the terms "community water system", "non-community water system", "potable", "private water system", and "semi-private water system" have the meanings ascribed to them in the Illinois Groundwater Protection Act. For the purposes of this Title, the term "soil gas" means the air existing in void spaces in the soil between the groundwater table and the ground surface.

(Source: P.A. 94-314, eff. 7-25-05.)

(415 ILCS 5/25d-2)

Sec. 25d-2. Contaminant evaluation. The Agency shall evaluate releases of contaminants whenever it determines that the extent of soil, soil gas, or groundwater contamination may extend beyond the boundary of the site where the release occurred. The Agency shall take appropriate actions in response to the release, which may include, but shall not be limited to, public notices, investigations, administrative orders under Sections 22.2d or 57.12(d) of this Act, and enforcement referrals. Except as provided in Section 25d-3 of this Act, for releases undergoing investigation or remediation under Agency oversight the Agency may determine that no further action is necessary to comply with this Section.

(Source: P.A. 94-314, eff. 7-25-05.)

(415 ILCS 5/25d-3)

Sec. 25d-3. Notices.

(a) Beginning January 1, 2006, if the Agency determines that:

(1) Soil contamination beyond the boundary of the site where the release occurred, soil gas contamination beyond the boundary of the site where the release occurred, or both pose poses a threat of exposure to the public above the appropriate Tier 1 remediation objectives, based on the current use of the off-site property, adopted by the Board under Title XVII of this Act, the Agency shall give notice of the threat to the owner of the contaminated property; or

(2) Groundwater contamination poses a threat of exposure to the public above the Class I groundwater quality standards adopted by the Board under this Act and the Groundwater Protection Act, the Agency shall give notice of the threat to the following:

(A) for any private, semi-private, or non-community water system, the owners of the properties served by the system; and

(B) for any community water system,

(i) the owners and operators of the system; and

(ii) the residents and owners of premises connected to the affected community water system; and

(iii) the residents and owners of premises connected to water systems receiving water from the affected community water system.

The Agency's determination must be based on the credible, scientific information available to it, and the Agency is not required to perform additional investigations or studies beyond those required by applicable federal or State laws.

For notices required under subparagraph (B) of paragraph (2) of subsection (a), the Agency shall (i) within 2 days after determining that groundwater contamination poses a threat of exposure to the public above the Class I groundwater quality standards, provide notice of the determination by issuing a press release and posting the press release on the Agency's website and (ii) within 5 days after the determination, provide the owner and operator of the community water system and the owners and operators of all connected community water systems with a notice printed on Agency letterhead that identifies the contaminant posing the threat, the level of contamination found, and possible human health effects associated with exposure to the contaminant. Within 5 business days after receiving a notice from the Agency under this paragraph, the owner or operator of the community water system must send, to all residents and owners of premises connected to the affected community water system: (i) a copy of the notice by first-class mail or by e-mail; or (ii) notification, in a form approved by the Agency, via first-class postcard, text message, or telephone; except that notices to institutional residents, including, but not limited to, residents of school dormitories, nursing homes, and assisted care facilities, may be made to the owners and operators of those institutions, and the owner or operator of those institutions shall notify their residents in the same manner as prescribed in this subsection for owners and operators of community water systems. If the manner for notice selected by the owner or operator of the community water system does not include a written copy of the notice provided by the Agency, the owner or operator shall include a written copy of the notice provided by the Agency in the next water bill sent to the residents and owners of the premises; provided, however, if the water bill is sent on a postcard, no written copy of the notice provided by the Agency is required if the postcard includes the Internet address for the notice posted on the Agency's website. The front of the envelope or postcard in which any such notice is sent to residents and owners of premises connected to the affected community water system shall carry the following text in at least 18 point font: PUBLIC HEALTH NOTICE - READ IMMEDIATELY. For a postcard, text message, or telephonic communication, the Agency shall specify the minimum information that the owner or operator must include in such methods of notice. Within 7 days after the owner or operator of the community water system sends the notices to residents and owners of premises connected to the community water system, the owner or operator shall provide the Agency with proof that the notices have been sent. The notices required under subparagraph (B) of paragraph (2) of subsection (a) shall be provided whether or not the threat of exposure has been eliminated.

(b) Beginning January 1, 2006, if any of the following actions occur: (i) the Agency refers a matter for enforcement under Section 43(a) of this Act; (ii) the Agency issues a seal order under Section 34 of this Act; or (iii) the Agency, the United States Environmental Protection Agency (USEPA), or a third party under Agency or USEPA oversight performs an immediate removal under the federal Comprehensive Environmental Response, Compensation, and Liability Act, as amended, then, within 60 days after the action, the Agency must give notice of the action to the owners of all property within 2,500 feet of the subject contamination or any closer or farther distance that the Agency deems appropriate under the circumstances. Within 30 days after a request by the Agency, the appropriate officials of the county in which the property is located must provide to the Agency the names and addresses of all property owners to whom the Agency is required to give notice under this subsection (b), these owners being the persons or

entities that appear from the authentic tax records of the county.

(c) In addition to the notice requirements of subsection (a) of this Section, the ~~The~~ methods by which the Agency gives the notices required under this Section shall be determined in consultation with members of the public and appropriate members of the regulated community and may include, but shall not be limited to, personal notification, public meetings, signs, electronic notification, and print media. For sites at which a responsible party has implemented a community relations plan, the Agency may allow the responsible party to provide Agency-approved notices in lieu of the notices required to be given by the Agency. Notices issued under this Section may contain the following information:

- (1) the name and address of the site or facility where the release occurred or is suspected to have occurred;
- (2) the identification of the contaminant released or suspected to have been released;
- (3) information as to whether the contaminant was released or suspected to have been released into the air, land, or water;
- (4) a brief description of the potential adverse health effects posed by the contaminant;
- (5) a recommendation that water systems with wells impacted or potentially impacted by the contaminant be appropriately tested; and
- (6) the name, business address, and phone number of persons at the Agency from whom additional information about the release or suspected release can be obtained.

(d) Any person who is a responsible party with respect to the release or substantial threat of release for which notice is given under this Section is liable for all reasonable costs incurred by the State in giving the notice. All moneys received by the State under this subsection (d) for costs related to releases and substantial threats of releases of hazardous substances, pesticides, and petroleum other than releases and substantial threats of releases of petroleum from underground storage tanks subject to Title XVI of this Act must be deposited in and used for purposes consistent with the Hazardous Waste Fund. All moneys received by the State under this subsection (d) for costs related to releases and substantial threats of releases of petroleum from underground storage tanks subject to Title XVI of this Act must be deposited in and used for purposes consistent with the Underground Storage Tank Fund.

(Source: P.A. 94-314, eff. 7-25-05; 95-454, eff. 8-27-07.)

(415 ILCS 5/42) (from Ch. 111 1/2, par. 1042)

Sec. 42. Civil penalties.

(a) Except as provided in this Section, any person that violates any provision of this Act or any regulation adopted by the Board, or any permit or term or condition thereof, or that violates any order of the Board pursuant to this Act, shall be liable for a civil penalty of not to exceed \$50,000 for the violation and an additional civil penalty of not to exceed \$10,000 for each day during which the violation continues; such penalties may, upon order of the Board or a court of competent jurisdiction, be made payable to the Environmental Protection Trust Fund, to be used in accordance with the provisions of the Environmental Protection Trust Fund Act.

(b) Notwithstanding the provisions of subsection (a) of this Section:

(1) Any person that violates Section 12(f) of this Act or any NPDES permit or term or condition thereof, or any filing requirement, regulation or order relating to the NPDES permit program, shall be liable to a civil penalty of not to exceed \$10,000 per day of violation.

(2) Any person that violates Section 12(g) of this Act or any UIC permit or term or condition thereof, or any filing requirement, regulation or order relating to the State UIC program for all wells, except Class II wells as defined by the Board under this Act, shall be liable to a civil penalty not to exceed \$2,500 per day of violation; provided, however, that any person who commits such violations relating to the State UIC program for Class II wells, as defined by the Board under this Act, shall be liable to a civil penalty of not to exceed \$10,000 for the violation and an additional civil penalty of not to exceed \$1,000 for each day during which the violation continues.

(3) Any person that violates Sections 21(f), 21(g), 21(h) or 21(i) of this Act, or any RCRA permit or term or condition thereof, or any filing requirement, regulation or order relating to the State RCRA program, shall be liable to a civil penalty of not to exceed \$25,000 per day of violation.

(4) In an administrative citation action under Section 31.1 of this Act, any person found to have violated any provision of subsection (o) of Section 21 of this Act shall pay a civil penalty of \$500 for each violation of each such provision, plus any hearing costs incurred by the Board and the Agency. Such penalties shall be made payable to the Environmental Protection Trust Fund, to be used in accordance with the provisions of the Environmental Protection Trust Fund Act; except that if a unit of

local government issued the administrative citation, 50% of the civil penalty shall be payable to the unit of local government.

(4-5) In an administrative citation action under Section 31.1 of this Act, any person found to have violated any provision of subsection (p) of Section 21 of this Act shall pay a civil penalty of \$1,500 for each violation of each such provision, plus any hearing costs incurred by the Board and the Agency, except that the civil penalty amount shall be \$3,000 for each violation of any provision of subsection (p) of Section 21 that is the person's second or subsequent adjudication violation of that provision. The penalties shall be deposited into the Environmental Protection Trust Fund, to be used in accordance with the provisions of the Environmental Protection Trust Fund Act; except that if a unit of local government issued the administrative citation, 50% of the civil penalty shall be payable to the unit of local government.

(5) Any person who violates subsection 6 of Section 39.5 of this Act or any CAAPP permit, or term or condition thereof, or any fee or filing requirement, or any duty to allow or carry out inspection, entry or monitoring activities, or any regulation or order relating to the CAAPP shall be liable for a civil penalty not to exceed \$10,000 per day of violation.

(6) Any owner or operator of a community water system that violates subsection (b) of Section 18.1 or subsection (a) of Section 25d-3 of this Act shall, for each day of violation, be liable for a civil penalty not to exceed \$5 for each of the premises connected to the affected community water system.

(b.5) In lieu of the penalties set forth in subsections (a) and (b) of this Section, any person who fails to file, in a timely manner, toxic chemical release forms with the Agency pursuant to Section 25b-2 of this Act shall be liable for a civil penalty of \$100 per day for each day the forms are late, not to exceed a maximum total penalty of \$6,000. This daily penalty shall begin accruing on the thirty-first day after the date that the person receives the warning notice issued by the Agency pursuant to Section 25b-6 of this Act; and the penalty shall be paid to the Agency. The daily accrual of penalties shall cease as of January 1 of the following year. All penalties collected by the Agency pursuant to this subsection shall be deposited into the Environmental Protection Permit and Inspection Fund.

(c) Any person that violates this Act, any rule or regulation adopted under this Act, any permit or term or condition of a permit, or any Board order and causes the death of fish or aquatic life shall, in addition to the other penalties provided by this Act, be liable to pay to the State an additional sum for the reasonable value of the fish or aquatic life destroyed. Any money so recovered shall be placed in the Wildlife and Fish Fund in the State Treasury.

(d) The penalties provided for in this Section may be recovered in a civil action.

(e) The State's Attorney of the county in which the violation occurred, or the Attorney General, may, at the request of the Agency or on his own motion, institute a civil action for an injunction, prohibitory or mandatory, to restrain violations of this Act, any rule or regulation adopted under this Act, any permit or term or condition of a permit, or any Board order, or to require such other actions as may be necessary to address violations of this Act, any rule or regulation adopted under this Act, any permit or term or condition of a permit, or any Board order.

(f) The State's Attorney of the county in which the violation occurred, or the Attorney General, shall bring such actions in the name of the people of the State of Illinois. Without limiting any other authority which may exist for the awarding of attorney's fees and costs, the Board or a court of competent jurisdiction may award costs and reasonable attorney's fees, including the reasonable costs of expert witnesses and consultants, to the State's Attorney or the Attorney General in a case where he has prevailed against a person who has committed a wilful, knowing or repeated violation of this Act, any rule or regulation adopted under this Act, any permit or term or condition of a permit, or any Board order.

Any funds collected under this subsection (f) in which the Attorney General has prevailed shall be deposited in the Hazardous Waste Fund created in Section 22.2 of this Act. Any funds collected under this subsection (f) in which a State's Attorney has prevailed shall be retained by the county in which he serves.

(g) All final orders imposing civil penalties pursuant to this Section shall prescribe the time for payment of such penalties. If any such penalty is not paid within the time prescribed, interest on such penalty at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, shall be paid for the period from the date payment is due until the date payment is received. However, if the time for payment is stayed during the pendency of an appeal, interest shall not accrue during such stay.

(h) In determining the appropriate civil penalty to be imposed under subdivisions (a), (b)(1), (b)(2), (b)(3), or (b)(5) of this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

(1) the duration and gravity of the violation;

(2) the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;

(3) any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;

(4) the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;

(5) the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;

(6) whether the respondent voluntarily self-disclosed, in accordance with subsection (i) of this Section, the non-compliance to the Agency; and

(7) whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform.

In determining the appropriate civil penalty to be imposed under subsection (a) or paragraph (1), (2), (3), or (5) of subsection (b) of this Section, the Board shall ensure, in all cases, that the penalty is at least as great as the economic benefits, if any, accrued by the respondent as a result of the violation, unless the Board finds that imposition of such penalty would result in an arbitrary or unreasonable financial hardship. However, such civil penalty may be off-set in whole or in part pursuant to a supplemental environmental project agreed to by the complainant and the respondent.

(i) A person who voluntarily self-discloses non-compliance to the Agency, of which the Agency had been unaware, is entitled to a 100% reduction in the portion of the penalty that is not based on the economic benefit of non-compliance if the person can establish the following:

(1) that the non-compliance was discovered through an environmental audit or a compliance management system documented by the regulated entity as reflecting the regulated entity's due diligence in preventing, detecting, and correcting violations;

(2) that the non-compliance was disclosed in writing within 30 days of the date on which the person discovered it;

(3) that the non-compliance was discovered and disclosed prior to:

(i) the commencement of an Agency inspection, investigation, or request for information;

(ii) notice of a citizen suit;

(iii) the filing of a complaint by a citizen, the Illinois Attorney General, or the State's Attorney of the county in which the violation occurred;

(iv) the reporting of the non-compliance by an employee of the person without that person's knowledge; or

(v) imminent discovery of the non-compliance by the Agency;

(4) that the non-compliance is being corrected and any environmental harm is being remediated in a timely fashion;

(5) that the person agrees to prevent a recurrence of the non-compliance;

(6) that no related non-compliance events have occurred in the past 3 years at the same facility or in the past 5 years as part of a pattern at multiple facilities owned or operated by the person;

(7) that the non-compliance did not result in serious actual harm or present an imminent and substantial endangerment to human health or the environment or violate the specific terms of any judicial or administrative order or consent agreement;

(8) that the person cooperates as reasonably requested by the Agency after the disclosure; and

(9) that the non-compliance was identified voluntarily and not through a monitoring, sampling, or auditing procedure that is required by statute, rule, permit, judicial or administrative order, or consent agreement.

If a person can establish all of the elements under this subsection except the element set forth in paragraph (1) of this subsection, the person is entitled to a 75% reduction in the portion of the penalty that is not based upon the economic benefit of non-compliance.

(j) In addition to an other remedy or penalty that may apply, whether civil or criminal, any person who

violates Section 22.52 of this Act shall be liable for an additional civil penalty of up to 3 times the gross amount of any pecuniary gain resulting from the violation.

(Source: P.A. 94-272, eff. 7-19-05; 94-580, eff. 8-12-05; 95-331, eff. 8-21-07.)

(415 ILCS 5/44) (from Ch. 111 1/2, par. 1044)

Sec. 44. Criminal acts; penalties.

(a) Except as otherwise provided in this Section, it shall be a Class A misdemeanor to violate this Act or regulations thereunder, or any permit or term or condition thereof, or knowingly to submit any false information under this Act or regulations adopted thereunder, or under any permit or term or condition thereof. A court may, in addition to any other penalty herein imposed, order a person convicted of any violation of this Act to perform community service for not less than 100 hours and not more than 300 hours if community service is available in the jurisdiction. It shall be the duty of all State and local law-enforcement officers to enforce such Act and regulations, and all such officers shall have authority to issue citations for such violations.

(b) Calculated Criminal Disposal of Hazardous Waste.

(1) A person commits the offense of Calculated Criminal Disposal of Hazardous Waste when, without lawful justification, he knowingly disposes of hazardous waste while knowing that he thereby places another person in danger of great bodily harm or creates an immediate or long-term danger to the public health or the environment.

(2) Calculated Criminal Disposal of Hazardous Waste is a Class 2 felony. In addition to any other penalties prescribed by law, a person convicted of the offense of Calculated Criminal Disposal of Hazardous Waste is subject to a fine not to exceed \$500,000 for each day of such offense.

(c) Criminal Disposal of Hazardous Waste.

(1) A person commits the offense of Criminal Disposal of Hazardous Waste when, without lawful justification, he knowingly disposes of hazardous waste.

(2) Criminal Disposal of Hazardous Waste is a Class 3 felony. In addition to any other penalties prescribed by law, a person convicted of the offense of Criminal Disposal of Hazardous Waste is subject to a fine not to exceed \$250,000 for each day of such offense.

(d) Unauthorized Use of Hazardous Waste.

(1) A person commits the offense of Unauthorized Use of Hazardous Waste when he, being required to have a permit, registration, or license under this Act or any other law regulating the treatment, transportation, or storage of hazardous waste, knowingly:

(A) treats, transports, or stores any hazardous waste without such permit, registration, or license;

(B) treats, transports, or stores any hazardous waste in violation of the terms and conditions of such permit or license;

(C) transports any hazardous waste to a facility which does not have a permit or license required under this Act; or

(D) transports by vehicle any hazardous waste without having in each vehicle credentials issued to the transporter by the transporter's base state pursuant to procedures established under the Uniform Program.

(2) A person who is convicted of a violation of subdivision (1)(A), (1)(B) or (1)(C) of this subsection is guilty of a Class 4 felony. A person who is convicted of a violation of subdivision (1)(D) is guilty of a Class A misdemeanor. In addition to any other penalties prescribed by law, a person convicted of violating subdivision (1)(A), (1)(B) or (1)(C) is subject to a fine not to exceed \$100,000 for each day of such violation, and a person who is convicted of violating subdivision (1)(D) is subject to a fine not to exceed \$1,000.

(e) Unlawful Delivery of Hazardous Waste.

(1) Except as authorized by this Act or the federal Resource Conservation and Recovery Act, and the regulations promulgated thereunder, it is unlawful for any person to knowingly deliver hazardous waste.

(2) Unlawful Delivery of Hazardous Waste is a Class 3 felony. In addition to any other penalties prescribed by law, a person convicted of the offense of Unlawful Delivery of Hazardous Waste is subject to a fine not to exceed \$250,000 for each such violation.

(3) For purposes of this Section, "deliver" or "delivery" means the actual, constructive, or attempted transfer of possession of hazardous waste, with or without consideration, whether or not there is an agency relationship.

(f) Reckless Disposal of Hazardous Waste.

(1) A person commits Reckless Disposal of Hazardous Waste if he disposes of hazardous waste, and his acts which cause the hazardous waste to be disposed of, whether or not those acts are undertaken pursuant to or under color of any permit or license, are performed with a conscious disregard of a substantial and unjustifiable risk that such disposing of hazardous waste is a gross deviation from the standard of care which a reasonable person would exercise in the situation.

(2) Reckless Disposal of Hazardous Waste is a Class 4 felony. In addition to any other penalties prescribed by law, a person convicted of the offense of Reckless Disposal of Hazardous Waste is subject to a fine not to exceed \$50,000 for each day of such offense.

(g) Concealment of Criminal Disposal of Hazardous Waste.

(1) A person commits the offense of Concealment of Criminal Disposal of Hazardous Waste when he conceals, without lawful justification, the disposal of hazardous waste with the knowledge that such hazardous waste has been disposed of in violation of this Act.

(2) Concealment of Criminal Disposal of a Hazardous Waste is a Class 4 felony. In addition to any other penalties prescribed by law, a person convicted of the offense of Concealment of Criminal Disposal of Hazardous Waste is subject to a fine not to exceed \$50,000 for each day of such offense.

(h) Violations; False Statements.

(1) Any person who knowingly makes a false material statement in an application for a permit or license required by this Act to treat, transport, store, or dispose of hazardous waste commits the offense of perjury and shall be subject to the penalties set forth in Section 32-2 of the Criminal Code of 1961.

(2) Any person who knowingly makes a false material statement or representation in any label, manifest, record, report, permit or license, or other document filed, maintained or used for the purpose of compliance with this Act in connection with the generation, disposal, treatment, storage, or transportation of hazardous waste commits a Class 4 felony. A second or any subsequent offense after conviction hereunder is a Class 3 felony.

(3) Any person who knowingly destroys, alters or conceals any record required to be made by this Act in connection with the disposal, treatment, storage, or transportation of hazardous waste, commits a Class 4 felony. A second or any subsequent offense after a conviction hereunder is a Class 3 felony.

(4) Any person who knowingly makes a false material statement or representation in any application, bill, invoice, or other document filed, maintained, or used for the purpose of receiving money from the Underground Storage Tank Fund commits a Class 4 felony. A second or any subsequent offense after conviction hereunder is a Class 3 felony.

(5) Any person who knowingly destroys, alters, or conceals any record required to be made or maintained by this Act or required to be made or maintained by Board or Agency rules for the purpose of receiving money from the Underground Storage Tank Fund commits a Class 4 felony. A second or any subsequent offense after a conviction hereunder is a Class 3 felony.

(6) A person who knowingly and falsely certifies under Section 22.48 that an industrial process waste or pollution control waste is not special waste commits a Class 4 felony for a first offense and commits a Class 3 felony for a second or subsequent offense.

(7) In addition to any other penalties prescribed by law, a person convicted of violating this subsection (h) is subject to a fine not to exceed \$50,000 for each day of such violation.

(8) Any person who knowingly makes a false, fictitious, or fraudulent material statement, orally or in writing, to the Agency, or to a unit of local government to which the Agency has delegated authority under subsection (r) of Section 4 of this Act, related to or required by this Act, a regulation adopted under this Act, any federal law or regulation for which the Agency has responsibility, or any permit, term, or condition thereof, commits a Class 4 felony, and each such statement or writing shall be considered a separate Class 4 felony. A person who, after being convicted under this paragraph (8), violates this paragraph (8) a second or subsequent time, commits a Class 3 felony.

(i) Verification.

(1) Each application for a permit or license to dispose of, transport, treat, store or generate hazardous waste under this Act shall contain an affirmation that the facts are true and are made under penalty of perjury as defined in Section 32-2 of the Criminal Code of 1961. It is perjury for a person to sign any such application for a permit or license which contains a false material statement, which he does not believe to be true.

(2) Each request for money from the Underground Storage Tank Fund shall contain an

affirmation that the facts are true and are made under penalty of perjury as defined in Section 32-2 of the Criminal Code of 1961. It is perjury for a person to sign any request that contains a false material statement that he does not believe to be true.

(j) Violations of Other Provisions.

(1) It is unlawful for a person knowingly to violate:

- (A) subsection (f) of Section 12 of this Act;
- (B) subsection (g) of Section 12 of this Act;
- (C) any term or condition of any Underground Injection Control (UIC) permit;
- (D) any filing requirement, regulation, or order relating to the State Underground Injection Control (UIC) program;
- (E) any provision of any regulation, standard, or filing requirement under subsection (b) of Section 13 of this Act;
- (F) any provision of any regulation, standard, or filing requirement under subsection (b) of Section 39 of this Act;
- (G) any National Pollutant Discharge Elimination System (NPDES) permit issued under this Act or any term or condition of such permit;
- (H) subsection (h) of Section 12 of this Act;
- (I) subsection 6 of Section 39.5 of this Act;
- (J) any provision of any regulation, standard or filing requirement under Section 39.5 of this Act;
- (K) a provision of the Procedures for Asbestos Emission Control in subsection (c) of Section 61.145 of Title 40 of the Code of Federal Regulations; or
- (L) the standard for waste disposal for manufacturing, fabricating, demolition, renovation, and spraying operations in Section 61.150 of Title 40 of the Code of Federal Regulations.

(2) A person convicted of a violation of subdivision (1) of this subsection commits a Class 4 felony, and in addition to any other penalty prescribed by law is subject to a fine not to exceed \$25,000 for each day of such violation.

(3) A person who negligently violates the following shall be subject to a fine not to exceed \$10,000 for each day of such violation:

- (A) subsection (f) of Section 12 of this Act;
- (B) subsection (g) of Section 12 of this Act;
- (C) any provision of any regulation, standard, or filing requirement under subsection (b) of Section 13 of this Act;
- (D) any provision of any regulation, standard, or filing requirement under subsection (b) of Section 39 of this Act;
- (E) any National Pollutant Discharge Elimination System (NPDES) permit issued under this Act;
- (F) subsection 6 of Section 39.5 of this Act; or
- (G) any provision of any regulation, standard, or filing requirement under Section 39.5 of this Act.

(4) It is unlawful for a person knowingly to:

- (A) make any false statement, representation, or certification in an application form, or form pertaining to, a National Pollutant Discharge Elimination System (NPDES) permit;
- (B) render inaccurate any monitoring device or record required by the Agency or Board in connection with any such permit or with any discharge which is subject to the provisions of subsection (f) of Section 12 of this Act;
- (C) make any false statement, representation, or certification in any form, notice or report pertaining to a CAAPP permit under Section 39.5 of this Act;
- (D) render inaccurate any monitoring device or record required by the Agency or Board in connection with any CAAPP permit or with any emission which is subject to the provisions of Section 39.5 of this Act; or
- (E) violate subsection 6 of Section 39.5 of this Act or any CAAPP permit, or term or condition thereof, or any fee or filing requirement.

(5) A person convicted of a violation of subdivision (4) of this subsection commits a Class A misdemeanor, and in addition to any other penalties provided by law is subject to a fine not to exceed \$10,000 for each day of violation.

(k) Criminal operation of a hazardous waste or PCB incinerator.

(1) A person commits the offense of criminal operation of a hazardous waste or PCB incinerator when, in the course of operating a hazardous waste or PCB incinerator, he knowingly and without justification operates the incinerator (i) without an Agency permit, or in knowing violation of the terms of an Agency permit, and (ii) as a result of such violation, knowingly places any person in danger of great bodily harm or knowingly creates an immediate or long term material danger to the public health or the environment.

(2) Any person who commits the offense of criminal operation of a hazardous waste or PCB incinerator for the first time commits a Class 4 felony and, in addition to any other penalties prescribed by law, shall be subject to a fine not to exceed \$100,000 for each day of the offense.

Any person who commits the offense of criminal operation of a hazardous waste or PCB incinerator for a second or subsequent time commits a Class 3 felony and, in addition to any other penalties prescribed by law, shall be subject to a fine not to exceed \$250,000 for each day of the offense.

(3) For the purpose of this subsection (k), the term "hazardous waste or PCB incinerator" means a pollution control facility at which either hazardous waste or PCBs, or both, are incinerated. "PCBs" means any substance or mixture of substances that contains one or more polychlorinated biphenyls in detectable amounts.

(l) It shall be the duty of all State and local law enforcement officers to enforce this Act and the regulations adopted hereunder, and all such officers shall have authority to issue citations for such violations.

(m) Any action brought under this Section shall be brought by the State's Attorney of the county in which the violation occurred, or by the Attorney General, and shall be conducted in accordance with the applicable provisions of the Code of Criminal Procedure of 1963.

(n) For an offense described in this Section, the period for commencing prosecution prescribed by the statute of limitations shall not begin to run until the offense is discovered by or reported to a State or local agency having the authority to investigate violations of this Act.

(o) In addition to any other penalties provided under this Act, if a person is convicted of (or agrees to a settlement in an enforcement action over) illegal dumping of waste on the person's own property, the Attorney General, the Agency or local prosecuting authority shall file notice of the conviction, finding or agreement in the office of the Recorder in the county in which the landowner lives.

(p) Criminal Disposal of Waste.

(1) A person commits the offense of Criminal Disposal of Waste when he or she:

(A) if required to have a permit under subsection (d) of Section 21 of this Act, knowingly conducts a waste-storage, waste-treatment, or waste-disposal operation in a quantity that exceeds 250 cubic feet of waste without a permit; or

(B) knowingly conducts open dumping of waste in violation of subsection (a) of Section 21 of this Act.

(2) (A) A person who is convicted of a violation of item (A) of subdivision (1) of this subsection is guilty of a Class 4 felony for a first offense and, in addition to any other penalties provided by law, is subject to a fine not to exceed \$25,000 for each day of violation. A person who is convicted of a violation of item (A) of subdivision (1) of this subsection is guilty of a Class 3 felony for a second or subsequent offense and, in addition to any other penalties provided by law, is subject to a fine not to exceed \$50,000 for each day of violation.

(B) A person who is convicted of a violation of item (B) of subdivision (1) of this subsection is guilty of a Class A misdemeanor. However, a person who is convicted of a second or subsequent violation of item (B) of subdivision (1) of this subsection for the open dumping of waste in a quantity that exceeds 250 cubic feet is guilty of a Class 4 felony and, in addition to any other penalties provided by law, is subject to a fine not to exceed \$5,000 for each day of violation.

(Source: P.A. 94-286, eff. 7-21-05.)

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

The foregoing message from the Senate reporting Senate Amendment No. 2 to HOUSE BILL 4021 was placed on the Calendar on the order of Concurrence.

A message from the Senate by
Ms. Rock, Secretary:

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

HOUSE BILL 3981

A bill for AN ACT concerning health.

Together with the attached amendment thereto (which amendment has been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 3981

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 3981 as follows:

on page 4, line 4, by deleting "absent imminent danger"; and on page 4, line 21, after "by a" by inserting "physician"; and on page 4, line 21, after "psychologist" by inserting ";"; and on page 5, line 1, by deleting "absent imminent danger"; and on page 7, line 3, by deleting "absent imminent danger"; and on page 8, line 12, by replacing "or" with "œ"; and on page 8, line 15, by replacing "." with ":-"; and on page 8, by inserting immediately below line 15 the following:

"(7) an attorney-in-fact appointed under the Mental Health Treatment Preference Declaration Act; or (8) any person in whose care and custody the recipient has been placed pursuant to Section 3-811 of the Mental Health and Developmental Disabilities Code."

The foregoing message from the Senate reporting Senate Amendment No. 1 to HOUSE BILL 3981 was placed on the Calendar on the order of Concurrence.

A message from the Senate by

Ms. Rock, Secretary:

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

HOUSE BILL 3854

A bill for AN ACT concerning economic development.

Together with the attached amendments thereto (which amendments have been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 3854

Senate Amendment No. 2 to HOUSE BILL NO. 3854

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 3854 by replacing everything after the enacting clause with the following:

"Article 1.

Section 1-1. Short title. This Act may be cited as the Illinois Energy to Jobs Act.

Article 5.

Section 5-1. Short title. This Article may be cited as the Carbon Capture and Sequestration Legislation Commission Law.

Section 5-5. Definitions. For purposes of this Article:

"CO₂" means carbon dioxide.

"Commission" means the Carbon Capture and Sequestration Legislation Commission.

"Director" means the Director of the Illinois Power Agency.

Section 5-10. Creation. An advisory commission, to be known as the Carbon Capture and Sequestration Legislation Commission, is created. The Commission shall consist of 16 members, including the Director,

who shall serve as the ex-officio chairperson of the Commission. The remaining 15 members of the Commission shall be appointed as follows: 3 members shall be appointed by the Speaker of the House of Representatives, 3 members shall be appointed by the President of the Senate, 2 members shall be appointed by the Minority Leader of the House of Representatives, 2 members shall be appointed by the Minority Leader of the Senate, and 5 members shall be appointed by the Governor. The appointments made by the Governor shall include one member with expertise in geology, one member with expertise in civil law, one member with expertise in pipeline technology, one member with expertise in energy-related engineering, and one member with expertise in environmental science.

Section 5-15. Report on carbon capture and sequestration legislation.

(a) The Commission shall file a report no later than December 31, 2010 with the General Assembly on all issues related to carbon capture and sequestration legislation, including, but not limited to, the following:

- (1) Ownership of the CO₂.
- (2) Liability for release of CO₂.
- (3) Acquisition and ownership of pore space.
- (4) Procedures and safeguards for the transportation and sequestration of CO₂.
- (5) Methodology to establish any necessary fees, costs, or offsets.
- (6) Potential use of CO₂.
- (7) Construction of pipelines.
- (8) Coordination with applicable federal law or regulatory commissions.

(b) The Commission shall be abolished upon filing its report with the General Assembly.

Section 5-20. Repealer. This Article is repealed on January 1, 2011.

Article 7.

Section 7-1. Short title. This Article may be cited as the Renewable Energy Production District Law.

Section 7-5. Definition. "Renewable energy facility" means a generator powered by solar electric energy, wind, dedicated crops grown for electricity generation, anaerobic digestion of livestock or food processing waste, fuel cells or microturbines powered by renewable fuels, or hydroelectric energy.

Section 7-10. Renewable energy production district. Any area within the boundaries of a single county may be incorporated as a renewable energy production district.

Fifty or more of the legal voters resident within the limits of the proposed district or a majority if there are fewer than 100 legal voters, may petition the circuit court for the county in which the proposed district is located to cause the question to be submitted to the legal voters of the proposed district whether the proposed territory shall be organized as a renewable energy production district under this Law. The petition shall be addressed to the court and shall contain a definite description of the boundaries of the territory to be embraced in the proposed district and the name of the proposed district. The territory incorporated in any district formed under this Law shall be contiguous and may contain any territory not previously included in any renewable energy production district.

Upon filing a petition, in the office of the circuit clerk of the county in which the petition is made, the court shall consider the boundaries of the renewable energy production district whether the same shall be those stated in the petition or otherwise.

Notice shall be given by the court of the time and place of a hearing upon the subject of the petition. The notice shall be inserted in one or more daily or weekly papers published within the proposed renewable energy production district or, if no daily or weekly newspaper is published within the proposed renewable energy production district, then by posting at least 10 copies in the proposed district at least 20 days before the meeting in conspicuous places as far separated from each other as consistently possible.

At the hearing, all persons in the proposed renewable energy production district shall have an opportunity to be heard touching the location and boundary of the proposed district and make suggestions regarding the same, and the court, after hearing statements, evidence, and suggestions, shall fix and determine the limits and boundaries of the proposed district, and for that purpose and to that extent, may alter and amend the petition. After the determination by the court the limits and boundaries shall be incorporated in an order, and the order shall be filed in the records of the court. Upon the entering of the order, the court shall certify the order and the proposition to the proper election officials, who shall submit the proposition to the voters at an election in accordance with the general election law. In addition to the requirements of the general election law, notice of the referendum shall include a description of the proposed district and the name of the proposed district.

The proposition shall be in substantially the following form:

Shall a renewable energy production district be incorporated?

Votes shall be recorded as "YES" or "NO".

The court shall cause a statement of the results of the election to be filed in the records of the court. If a majority of the votes cast upon the question are in favor of the incorporation of the proposed renewable energy production district, the district shall thenceforth be an organized renewable energy production district under this Act, and the court shall enter an order accordingly and cause the same to be filed in the records of the court and shall also cause to be sent to the county clerk a certified copy of the order organizing the district.

Section 7-15. Board of trustees. A renewable energy production district shall be governed by a board of trustees. The board of trustees shall consist of 5 members. Within 90 days after the order is entered organizing the district, the county board in which the renewable energy production district is located shall appoint the members of the board. The members of the board shall serve for a period of 5 years. Vacancies shall be filled in the same manner as appointments. The members of the board shall annually elect one member to serve as the chairperson. Members of the board shall serve without compensation but may receive the reasonable cost of their travel expenses.

Section 7-20. Powers. The board shall exercise all of the powers and control all the affairs of a renewable energy production district.

(a) The board may:

- (1) construct, operate, and maintain a renewable energy facility;
- (2) contract with private or public entities to construct, operate, or maintain a renewable energy facility for the district;
- (3) solicit and accept moneys from any legal source; and
- (4) sell the renewable energy produced by a renewable energy facility.

(b) The board must remit all money collected from a renewable energy facility to the county in which the district is located.

Article 10.

Section 10-5. The Illinois Power Agency Act is amended by changing Sections 1-10, 1-21, and 1-80 as follows:

(20 ILCS 3855/1-10)

(Text of Section before amendment by P.A. 95-1027)

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.

"Clean coal facility" means an electric generating facility that uses primarily coal as a feedstock and that captures and sequesters carbon emissions at the following levels: at least 50% of the total carbon emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation before 2016, at least 70% of the total carbon emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation during 2016 or 2017, and at least 90% of the total carbon emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation after 2017. The power block of the clean coal facility shall not exceed allowable emission rates for sulfur dioxide, nitrogen oxides, carbon monoxide, particulates and mercury for a natural gas-fired combined-cycle facility the same size as and in the same location as the clean coal facility at the time the clean coal facility obtains an approved air permit. All coal used by a clean coal facility shall have high volatile bituminous rank and greater than 1.7 pounds of sulfur per million btu content, unless the clean coal facility does not use gasification technology and was operating as a conventional coal-fired electric generating facility on June 1, 2009 (the effective date of Public Act 95-1027).

"Clean coal SNG facility" means a facility that uses a gasification process to produce substitute natural gas, that sequesters at least 90% of the total carbon emissions that the facility would otherwise emit and that uses coal as a feedstock, with all such coal having a high bituminous rank and greater than 1.7 pounds of sulfur per million btu content.

"Coal to liquid facility" means a facility that produces fuels by processes that convert coal, waste coal, or biomass resources or extract oil from oil shale to produce fuels for powering vehicles, aircraft, and machinery and that sequesters carbon emissions consistent with federal and State standards. These fuels may include, but are not limited to, petroleum, jet fuel, gasoline, diesel fuel, hydrogen derived from coal, and diesel fuel and ethanol derived from biomass resources. "Biomass resources" means any organic matter that is available on a renewable or recurring basis, including (1) agricultural crops and trees, (2) wood and wood residues, (3) plants, aquatic plants, and plant oils, (4) grasses, (5) animal fats and animal by-products, (6) animal manure, (7) residue materials, and (8) waste products.

"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.

"Energy facility" includes a clean coal power facility, a clean coal SNG facility, a nuclear facility, a facility that produces renewable energy, including, but not limited to, wind, solar, and biomass, lines for the transmission of electric power, smart-grid equipment and facilities, a fossil fuel-fired electric generation facility existing on the effective date of this amendatory Act of the 96th General Assembly that is regulated by the Illinois Environmental Protection Agency and has been issued permits required by the Environmental Protection Act, a coal to liquid facility, a refinery to produce fuel or energy, common carriers by pipeline that transport oil or gas to or from refineries in Illinois, and a coal mine or a facility for the exploration or production of oil or gas, and all linear facilities, including railroads, road pipelines, or transmission lines necessary to the operation of that facility.

"Electric utility" has the same definition as found in Section 16-102 of the Public Utilities Act.

"Facility", when used in reference to an electric generation 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.

"Feedstock" means any raw material supplied to an energy facility from which other end products can be made.

"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 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 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.

"Sequester" means permanent storage of carbon dioxide by injecting it into a saline aquifer, a depleted gas reservoir, or an oil reservoir, directly or through an enhanced oil recovery process that may involve intermediate storage in a salt dome.

"Servicing agreement" means (i) in the case of an electric utility, an agreement between the owner of a clean coal facility and such electric utility, which agreement shall have terms and conditions meeting the requirements of paragraph (3) of subsection (d) of Section 1-75, and (ii) in the case of an alternative retail electric supplier, an agreement between the owner of a clean coal facility and such alternative retail electric supplier, which agreement shall have terms and conditions meeting the requirements of Section 16-115(d)(5) of the Public Utilities Act.

"Substitute natural gas" or "SNG" means a gas manufactured by gasification of hydrocarbon feedstock, which is substantially interchangeable in use and distribution with conventional natural gas.

"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; 95-913, eff. 1-1-09.)

(Text of Section after amendment by P.A. 95-1027)

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.

"Clean coal facility" means an electric generating facility that uses primarily coal as a feedstock and that captures and sequesters carbon emissions at the following levels: at least 50% of the total carbon emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation before 2016, at least 70% of the total carbon emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation during 2016 or 2017, and at least 90% of the total carbon emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation after 2017. The

power block of the clean coal facility shall not exceed allowable emission rates for sulfur dioxide, nitrogen oxides, carbon monoxide, particulates and mercury for a natural gas-fired combined-cycle facility the same size as and in the same location as the clean coal facility at the time the clean coal facility obtains an approved air permit. All coal used by a clean coal facility shall have high volatile bituminous rank and greater than 1.7 pounds of sulfur per million btu content, unless the clean coal facility does not use gasification technology and was operating as a conventional coal-fired electric generating facility on June 1, 2009 (the effective date of Public Act 95-1027) this amendatory Act of the 95th General Assembly.

"Clean coal SNG facility" means a facility that uses a gasification process to produce substitute natural gas, that sequesters at least 90% of the total carbon emissions that the facility would otherwise emit and that uses coal as a feedstock, with all such coal having a high bituminous rank and greater than 1.7 pounds of sulfur per million btu content.

"Coal to liquid facility" means a facility that produces fuels by processes that convert coal, waste coal, or biomass resources or extract oil from oil shale to produce fuels for powering vehicles, aircraft, and machinery and that sequesters carbon emissions consistent with federal and State standards. These fuels may include, but are not limited to, petroleum, jet fuel, gasoline, diesel fuel, hydrogen derived from coal, and diesel fuel and ethanol derived from biomass resources. "Biomass resources" means any organic matter that is available on a renewable or recurring basis, including (1) agricultural crops and trees, (2) wood and wood residues, (3) plants, aquatic plants, and plant oils, (4) grasses, (5) animal fats and animal by-products, (6) animal manure, (7) residue materials, and (8) waste products.

"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.

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"Energy efficiency" means measures that reduce the amount of electricity required to achieve a given end use.

"Energy facility" includes a clean coal power facility, a clean coal SNG facility, a nuclear facility, a facility that produces renewable energy, including, but not limited to, wind, solar, and biomass, lines for the transmission of electric power, smart-grid equipment and facilities, a fossil fuel-fired electric generation facility existing on the effective date of this amendatory Act of the 96th General Assembly that is regulated by the Illinois Environmental Protection Agency and has been issued permits required by the Environmental Protection Act, a coal to liquid facility, a refinery to produce fuel or energy, common carriers by pipeline that transport oil or gas to or from refineries in Illinois, and a coal mine or a facility for the exploration or production of oil or gas, and all linear facilities, including railroads, road pipelines, or transmission lines necessary to the operation of that facility.

"Electric utility" has the same definition as found in Section 16-102 of the Public Utilities Act.

"Facility", when used in reference to an electric generation 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.

"Feedstock" means any raw material supplied to an energy facility from which other end products can be made.

"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.

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"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 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 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.

"Sequester" means permanent storage of carbon dioxide by injecting it into a saline aquifer, a depleted gas reservoir, or an oil reservoir, directly or through an enhanced oil recovery process that may involve intermediate storage in a salt dome.

"Servicing agreement" means (i) in the case of an electric utility, an agreement between the owner of a clean coal facility and such electric utility, which agreement shall have terms and conditions meeting the requirements of paragraph (3) of subsection (d) of Section 1-75, and (ii) in the case of an alternative retail electric supplier, an agreement between the owner of a clean coal facility and such alternative retail electric supplier, which agreement shall have terms and conditions meeting the requirements of Section 16-115(d)(5) of the Public Utilities Act.

"Substitute natural gas" or "SNG" means a gas manufactured by gasification of hydrocarbon feedstock, which is substantially interchangeable in use and distribution with conventional natural gas.

"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; 95-913, eff. 1-1-09; 95-1027, eff. 6-1-09; revised 1-14-09.)

(20 ILCS 3855/1-21)

Sec. 1-21. Eminent domain. The Agency may take and acquire possession by eminent domain of any property or interest in property that the Agency is authorized to acquire under this Act for the construction, maintenance, or operation of an energy a facility with the consent in writing of the Governor, after following the provisions of Section 1-85(a) of this Act, to acquire by private purchase, or by condemnation

in the manner provided for the exercise of the power of eminent domain under the Eminent Domain Act. The power of condemnation shall be exercised, however, solely for the purposes of one or more of the following: siting, rights of way, and easements appurtenant. In addition, the Agency may acquire by eminent domain permanent easements for the delivery, transportation, and storage of CO₂ and may lease those easements to any energy facility on reasonable terms and conditions, as determined by the Agency. The Agency shall not exercise its powers of condemnation until it has used reasonable good faith efforts to acquire the property before filing a petition for condemnation and may thereafter use those powers when it determines that the condemnation of the property rights is necessary to avoid unreasonable delay or economic hardship to the progress of activities carried out in the exercise of powers granted under this Act. Before use of the power of condemnation for projects, the Agency shall hold a public hearing to receive comments on the exercise of the power of condemnation. The Agency shall use the information received at the hearing in making its final decision on the exercise of the power of condemnation. The hearing shall be held in a location reasonably accessible to the public interested in the decision. The Agency shall promulgate guidelines for the conduct of the hearing. The Agency shall conduct a feasibility study showing that the taking is necessary to accomplish the purposes of this Act and that is adequate to meet the environmental standards set forth by the State and the federal governments. The Agency may not exercise the authority provided in Article 20 of the Eminent Domain Act (quick-take procedure) providing for immediate possession in those proceedings. The Agency does not have the power to exercise eminent domain over the property of any public utility or any person owning an electric generating plant.

(Source: P.A. 95-481, eff. 8-28-07.)

(20 ILCS 3855/1-80)

(Text of Section before amendment by P.A. 95-1027)

Sec. 1-80. Resource Development Bureau. The Resource Development Bureau has the following duties and responsibilities:

(a) At the Agency's discretion, conduct feasibility studies on the construction of any facility. Funding for a study shall come from either:

(i) fees assessed by the Agency on municipal electric systems, governmental aggregators, unit or units of local government, or rural electric cooperatives requesting the feasibility study; or

(ii) an appropriation from the General Assembly.

(b) If the Agency undertakes the construction of a facility, moneys generated from the sale of revenue bonds by the Authority for the facility shall be used to reimburse the source of the money used for the facility's feasibility study.

(c) The Agency may develop, finance, construct, or operate electric generation and co-generation facilities that use indigenous coal or renewable resources, or both, financed with bonds issued by the Authority on behalf of the Agency. Any such facility that uses coal must be a clean coal facility and must be constructed in a location where the geology is suitable for carbon sequestration. The Agency may also develop, finance, construct, or operate a carbon sequestration facility, including necessary pipelines, transmission lines, or both. Preference shall be given to technologies that enable carbon capture and sites in locations where the geology is suitable for carbon sequestration.

(1) The Agency may enter into contractual arrangements with private and public entities, including but not limited to municipal electric systems, governmental aggregators, and rural electric cooperatives, to plan, site, construct, improve, rehabilitate, and operate those electric generation and co-generation facilities. No contract shall be entered into by the Agency that would jeopardize the tax-exempt status of any bond issued in connection with a project for which the Agency entered into the contract.

(2) The Agency shall hold at least one public hearing before entering into any such contractual arrangements. At least 30-days' notice of the hearing shall be given by publication once in each week during that period in 6 newspapers within the State, at least one of which has a circulation area that includes the location of the proposed facility.

(3) The first facility that the Agency develops, finances, or constructs shall be a facility that uses coal produced in Illinois. The Agency may, however, also develop, finance, or construct renewable energy facilities after work on the first facility has commenced.

(4) The Agency may not develop, finance, or construct a nuclear power plant.

(5) The Agency shall assess fees to applicants seeking to partner with the Agency on projects.

(d) Use of electricity generated by the Agency's facilities. The Agency may supply

electricity produced by the Agency's facilities to municipal electric systems, governmental aggregators, or rural electric cooperatives in Illinois. The electricity shall be supplied at cost.

(1) Contracts to supply power and energy from the Agency's facilities shall provide for the effectuation of the policies set forth in this Act.

(2) The contracts shall also provide that, notwithstanding any provision in the Public Utilities Act, entities supplied with power and energy from an Agency facility shall supply the power and energy to retail customers at the same price paid to purchase power and energy from the Agency.

(e) Electric utilities shall not be required to purchase electricity directly or indirectly from facilities developed or sponsored by the Agency.

(f) The Agency may sell excess capacity and excess energy into the wholesale electric market at prevailing market rates; provided, however, the Agency may not sell excess capacity or excess energy through the procurement process described in Section 16-111.5 of the Public Utilities Act.

(g) The Agency shall not directly sell electric power and energy to retail customers.

Nothing in this paragraph shall be construed to prohibit sales to municipal electric systems, governmental aggregators, or rural electric cooperatives.

(Source: P.A. 95-481, eff. 8-28-07.)

(Text of Section after amendment by P.A. 95-1027)

Sec. 1-80. Resource Development Bureau. The Resource Development Bureau has the following duties and responsibilities:

(a) At the Agency's discretion, conduct feasibility studies on the construction of any facility. Funding for a study shall come from either:

(i) fees assessed by the Agency on municipal electric systems, governmental aggregators, unit or units of local government, or rural electric cooperatives requesting the feasibility study; or

(ii) an appropriation from the General Assembly.

(b) If the Agency undertakes the construction of a facility, moneys generated from the sale of revenue bonds by the Authority for the facility shall be used to reimburse the source of the money used for the facility's feasibility study.

(c) The Agency may develop, finance, construct, or operate electric generation and co-generation facilities that use indigenous coal or renewable resources, or both, financed with bonds issued by the Authority on behalf of the Agency. Any such facility that uses coal must be a clean coal facility and must be constructed in a location where the geology is suitable for carbon sequestration. The Agency may also develop, finance, construct, or operate a carbon sequestration facility, including necessary pipelines, transmission lines, or both.

(1) The Agency may enter into contractual arrangements with private and public entities, including but not limited to municipal electric systems, governmental aggregators, and rural electric cooperatives, to plan, site, construct, improve, rehabilitate, and operate those electric generation and co-generation facilities. No contract shall be entered into by the Agency that would jeopardize the tax-exempt status of any bond issued in connection with a project for which the Agency entered into the contract.

(2) The Agency shall hold at least one public hearing before entering into any such contractual arrangements. At least 30-days' notice of the hearing shall be given by publication once in each week during that period in 6 newspapers within the State, at least one of which has a circulation area that includes the location of the proposed facility.

(3) The first facility that the Agency develops, finances, or constructs shall be a facility that uses coal produced in Illinois. The Agency may, however, also develop, finance, or construct renewable energy facilities after work on the first facility has commenced.

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(g) The Agency shall not directly sell electric power and energy to retail customers.

Nothing in this paragraph shall be construed to prohibit sales to municipal electric systems, governmental aggregators, or rural electric cooperatives.

(Source: P.A. 95-481, eff. 8-28-07; 95-1027, eff. 6-1-09.)

Section 10-10. The Public Utilities Act is amended by changing Sections 8-406, 9-220, and 15-401 and by adding Section 4-105 as follows:

(220 ILCS 5/4-105 new)

Sec. 4-105. Expedited permitting. The rules of the Commission must include a process for expediting the issuance of permits and licenses for projects at energy facilities that are subject to Commission regulation as of January 1, 2009, as that term is used in Section 1-10 of the Illinois Power Agency Act. The Commission may engage the experts and additional resources that are reasonably necessary for implementing this process. An applicant must request the use of an expedited process, and any additional costs for using that process shall be borne by the applicant.

(220 ILCS 5/8-406) (from Ch. 111 2/3, par. 8-406)

Sec. 8-406. Certificate of public convenience and necessity.

(a) No public utility not owning any city or village franchise nor engaged in performing any public service or in furnishing any product or commodity within this State as of July 1, 1921 and not possessing a certificate of public convenience and necessity from the Illinois Commerce Commission, the State Public Utilities Commission or the Public Utilities Commission, at the time this amendatory Act of 1985 goes into effect, shall transact any business in this State until it shall have obtained a certificate from the Commission that public convenience and necessity require the transaction of such business.

(b) No public utility shall begin the construction of any new plant, equipment, property or facility which is not in substitution of any existing plant, equipment, property or facility or any extension or alteration thereof or in addition thereto, unless and until it shall have obtained from the Commission a certificate that public convenience and necessity require such construction. Whenever after a hearing the Commission determines that any new construction or the transaction of any business by a public utility will promote the public convenience and is necessary thereto, it shall have the power to issue certificates of public convenience and necessity. The Commission shall determine that proposed construction will promote the public convenience and necessity only if the utility demonstrates: (1) that the proposed construction is necessary to provide adequate, reliable, and efficient service to its customers and is the least-cost means of satisfying the service needs of its customers or that the proposed construction will promote the development of an effectively competitive electricity market that operates efficiently, is equitable to all customers, and is the least cost means of satisfying those objectives; (2) that the utility is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision thereof; and (3) that the utility is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers.

~~(c) (Blank). After the effective date of this amendatory Act of 1987, no construction shall commence on any new nuclear power plant to be located within this State, and no certificate of public convenience and necessity or other authorization shall be issued therefor by the Commission, until the Director of the Illinois Environmental Protection Agency finds that the United States Government, through its authorized agency, has identified and approved a demonstrable technology or means for the disposal of high level nuclear waste, or until such construction has been specifically approved by a statute enacted by the General Assembly.~~

~~As used in this Section, "high level nuclear waste" means those aqueous wastes resulting from the operation of the first cycle of the solvent extraction system or equivalent and the concentrated wastes of the subsequent extraction cycles or equivalent in a facility for reprocessing irradiated reactor fuel and shall include spent fuel assemblies prior to fuel reprocessing.~~

(d) In making its determination, the Commission shall attach primary weight to the cost or cost savings

to the customers of the utility. The Commission may consider any or all factors which will or may affect such cost or cost savings.

(e) The Commission may issue a temporary certificate which shall remain in force not to exceed one year in cases of emergency, to assure maintenance of adequate service or to serve particular customers, without notice or hearing, pending the determination of an application for a certificate, and may by regulation exempt from the requirements of this Section temporary acts or operations for which the issuance of a certificate will not be required in the public interest.

A public utility shall not be required to obtain but may apply for and obtain a certificate of public convenience and necessity pursuant to this Section with respect to any matter as to which it has received the authorization or order of the Commission under the Electric Supplier Act, and any such authorization or order granted a public utility by the Commission under that Act shall as between public utilities be deemed to be, and shall have except as provided in that Act the same force and effect as, a certificate of public convenience and necessity issued pursuant to this Section.

No electric cooperative shall be made or shall become a party to or shall be entitled to be heard or to otherwise appear or participate in any proceeding initiated under this Section for authorization of power plant construction and as to matters as to which a remedy is available under The Electric Supplier Act.

(f) Such certificates may be altered or modified by the Commission, upon its own motion or upon application by the person or corporation affected. Unless exercised within a period of 2 years from the grant thereof authority conferred by a certificate of convenience and necessity issued by the Commission shall be null and void.

No certificate of public convenience and necessity shall be construed as granting a monopoly or an exclusive privilege, immunity or franchise.

(Source: P.A. 95-700, eff. 11-9-07.)

(220 ILCS 5/9-220) (from Ch. 111 2/3, par. 9-220)

(Text of Section before amendment by P.A. 95-1027)

Sec. 9-220. Rate changes based on changes in fuel costs.

(a) Notwithstanding the provisions of Section 9-201, the Commission may authorize the increase or decrease of rates and charges based upon changes in the cost of fuel used in the generation or production of electric power, changes in the cost of purchased power, or changes in the cost of purchased gas through the application of fuel adjustment clauses or purchased gas adjustment clauses. The Commission may also authorize the increase or decrease of rates and charges based upon expenditures or revenues resulting from the purchase or sale of emission allowances created under the federal Clean Air Act Amendments of 1990, through such fuel adjustment clauses, as a cost of fuel. For the purposes of this paragraph, cost of fuel used in the generation or production of electric power shall include the amount of any fees paid by the utility for the implementation and operation of a process for the desulfurization of the flue gas when burning high sulfur coal at any location within the State of Illinois irrespective of the attainment status designation of such location; but shall not include transportation costs of coal (i) except to the extent that for contracts entered into on and after the effective date of this amendatory Act of 1997, the cost of the coal, including transportation costs, constitutes the lowest cost for adequate and reliable fuel supply reasonably available to the public utility in comparison to the cost, including transportation costs, of other adequate and reliable sources of fuel supply reasonably available to the public utility, or (ii) except as otherwise provided in the next 3 sentences of this paragraph. Such costs of fuel shall, when requested by a utility or at the conclusion of the utility's next general electric rate proceeding, whichever shall first occur, include transportation costs of coal purchased under existing coal purchase contracts. For purposes of this paragraph "existing coal purchase contracts" means contracts for the purchase of coal in effect on the effective date of this amendatory Act of 1991, as such contracts may thereafter be amended, but only to the extent that any such amendment does not increase the aggregate quantity of coal to be purchased under such contract. Nothing herein shall authorize an electric utility to recover through its fuel adjustment clause any amounts of transportation costs of coal that were included in the revenue requirement used to set base rates in its most recent general rate proceeding. Cost shall be based upon uniformly applied accounting principles. Annually, the Commission shall initiate public hearings to determine whether the clauses reflect actual costs of fuel, gas, power, or coal transportation purchased to determine whether such purchases were prudent, and to reconcile any amounts collected with the actual costs of fuel, power, gas, or coal transportation prudently purchased. In each such proceeding, the burden of proof shall be upon the utility to establish the prudence of its cost of fuel, power, gas, or coal transportation purchases and costs. The Commission shall issue its final order in each such annual proceeding for an electric utility by December 31 of the year immediately following the year to which the proceeding pertains, provided, that the

Commission shall issue its final order with respect to such annual proceeding for the years 1996 and earlier by December 31, 1998.

(b) A public utility providing electric service, other than a public utility described in subsections (e) or (f) of this Section, may at any time during the mandatory transition period file with the Commission proposed tariff sheets that eliminate the public utility's fuel adjustment clause and adjust the public utility's base rate tariffs by the amount necessary for the base fuel component of the base rates to recover the public utility's average fuel and power supply costs per kilowatt-hour for the 2 most recent years for which the Commission has issued final orders in annual proceedings pursuant to subsection (a), where the average fuel and power supply costs per kilowatt-hour shall be calculated as the sum of the public utility's prudent and allowable fuel and power supply costs as found by the Commission in the 2 proceedings divided by the public utility's actual jurisdictional kilowatt-hour sales for those 2 years. Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, the Commission shall review and shall by order approve, or approve as modified, the proposed tariff sheets within 60 days after the date of the public utility's filing. The Commission may modify the public utility's proposed tariff sheets only to the extent the Commission finds necessary to achieve conformance to the requirements of this subsection (b). During the 5 years following the date of the Commission's order, but in any event no earlier than January 1, 2007, a public utility whose fuel adjustment clause has been eliminated pursuant to this subsection shall not file proposed tariff sheets seeking, or otherwise petition the Commission for, reinstatement of a fuel adjustment clause.

(c) Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, a public utility providing electric service, other than a public utility described in subsection (e) or (f) of this Section, may at any time during the mandatory transition period file with the Commission proposed tariff sheets that establish the rate per kilowatt-hour to be applied pursuant to the public utility's fuel adjustment clause at the average value for such rate during the preceding 24 months, provided that such average rate results in a credit to customers' bills, without making any revisions to the public utility's base rate tariffs. The proposed tariff sheets shall establish the fuel adjustment rate for a specific time period of at least 3 years but not more than 5 years, provided that the terms and conditions for any reinstatement earlier than 5 years shall be set forth in the proposed tariff sheets and subject to modification or approval by the Commission. The Commission shall review and shall by order approve the proposed tariff sheets if it finds that the requirements of this subsection are met. The Commission shall not conduct the annual hearings specified in the last 3 sentences of subsection (a) of this Section for the utility for the period that the factor established pursuant to this subsection is in effect.

(d) A public utility providing electric service, or a public utility providing gas service may file with the Commission proposed tariff sheets that eliminate the public utility's fuel or purchased gas adjustment clause and adjust the public utility's base rate tariffs to provide for recovery of power supply costs or gas supply costs that would have been recovered through such clause; provided, that the provisions of this subsection (d) shall not be available to a public utility described in subsections (e) or (f) of this Section to eliminate its fuel adjustment clause. Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section, or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, the Commission shall review and shall by order approve, or approve as modified in the Commission's order, the proposed tariff sheets within 240 days after the date of the public utility's filing. The Commission's order shall approve rates and charges that the Commission, based on information in the public utility's filing or on the record if a hearing is held by the Commission, finds will recover the reasonable, prudent and necessary jurisdictional power supply costs or gas supply costs incurred or to be incurred by the public utility during a 12 month period found by the Commission to be appropriate for these purposes, provided, that such period shall be either (i) a 12 month historical period occurring during the 15 months ending on the date of the public utility's filing, or (ii) a 12 month future period ending no later than 15 months following the date of the public utility's filing. The public utility shall include with its tariff filing information showing both (1) its actual jurisdictional power supply costs or gas supply costs for a 12 month historical period conforming to (i) above and (2) its projected jurisdictional power supply costs or gas supply costs for a future 12 month period conforming to (ii) above. If the Commission's order requires modifications in the tariff sheets filed by the public utility, the public utility shall have 7 days following the date of the order to notify the Commission whether the public utility will implement the modified tariffs or elect to continue its fuel or purchased gas adjustment clause in force as though no order had been entered. The Commission's order shall provide for any

reconciliation of power supply costs or gas supply costs, as the case may be, and associated revenues through the date that the public utility's fuel or purchased gas adjustment clause is eliminated. During the 5 years following the date of the Commission's order, a public utility whose fuel or purchased gas adjustment clause has been eliminated pursuant to this subsection shall not file proposed tariff sheets seeking, or otherwise petition the Commission for, reinstatement or adoption of a fuel or purchased gas adjustment clause. Nothing in this subsection (d) shall be construed as limiting the Commission's authority to eliminate a public utility's fuel adjustment clause or purchased gas adjustment clause in accordance with any other applicable provisions of this Act.

(e) Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section, or in any rules promulgated by the Commission pursuant to subsection (g) of this Section, a public utility providing electric service to more than 1,000,000 customers in this State may, within the first 6 months after the effective date of this amendatory Act of 1997, file with the Commission proposed tariff sheets that eliminate, effective January 1, 1997, the public utility's fuel adjustment clause without adjusting its base rates, and such tariff sheets shall be effective upon filing. To the extent the application of the fuel adjustment clause had resulted in net charges to customers after January 1, 1997, the utility shall also file a tariff sheet that provides for a refund stated on a per kilowatt-hour basis of such charges over a period not to exceed 6 months; provided however, that such refund shall not include the proportional amounts of taxes paid under the Use Tax Act, Service Use Tax Act, Service Occupation Tax Act, and Retailers' Occupation Tax Act on fuel used in generation. The Commission shall issue an order within 45 days after the date of the public utility's filing approving or approving as modified such tariff sheet. If the fuel adjustment clause is eliminated pursuant to this subsection, the Commission shall not conduct the annual hearings specified in the last 3 sentences of subsection (a) of this Section for the utility for any period after December 31, 1996 and prior to any reinstatement of such clause. A public utility whose fuel adjustment clause has been eliminated pursuant to this subsection shall not file a proposed tariff sheet seeking, or otherwise petition the Commission for, reinstatement of the fuel adjustment clause prior to January 1, 2007.

(f) Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section, or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, a public utility providing electric service to more than 500,000 customers but fewer than 1,000,000 customers in this State may, within the first 6 months after the effective date of this amendatory Act of 1997, file with the Commission proposed tariff sheets that eliminate, effective January 1, 1997, the public utility's fuel adjustment clause and adjust its base rates by the amount necessary for the base fuel component of the base rates to recover 91% of the public utility's average fuel and power supply costs for the 2 most recent years for which the Commission, as of January 1, 1997, has issued final orders in annual proceedings pursuant to subsection (a), where the average fuel and power supply costs per kilowatt-hour shall be calculated as the sum of the public utility's prudent and allowable fuel and power supply costs as found by the Commission in the 2 proceedings divided by the public utility's actual jurisdictional kilowatt-hour sales for those 2 years, provided, that such tariff sheets shall be effective upon filing. To the extent the application of the fuel adjustment clause had resulted in net charges to customers after January 1, 1997, the utility shall also file a tariff sheet that provides for a refund stated on a per kilowatt-hour basis of such charges over a period not to exceed 6 months. Provided however, that such refund shall not include the proportional amounts of taxes paid under the Use Tax Act, Service Use Tax Act, Service Occupation Tax Act, and Retailers' Occupation Tax Act on fuel used in generation. The Commission shall issue an order within 45 days after the date of the public utility's filing approving or approving as modified such tariff sheet. If the fuel adjustment clause is eliminated pursuant to this subsection, the Commission shall not conduct the annual hearings specified in the last 3 sentences of subsection (a) of this Section for the utility for any period after December 31, 1996 and prior to any reinstatement of such clause. A public utility whose fuel adjustment clause has been eliminated pursuant to this subsection shall not file a proposed tariff sheet seeking, or otherwise petition the Commission for, reinstatement of the fuel adjustment clause prior to January 1, 2007.

(g) The Commission shall have authority to promulgate rules and regulations to carry out the provisions of this Section.

(h) Any gas utility may enter into a contract for up to 20 years of supply with any company for the purchase of substitute natural gas (SNG) produced from coal through the gasification process if the company has commenced construction of a coal gasification facility by July 1, 2010. The cost for the SNG is reasonable and prudent and recoverable through the purchased gas adjustment clause for years one through 10 of the contract if: (i) the only coal used in the gasification process has high volatile bituminous

rank and greater than 1.7 pounds of sulfur per million Btu content; (ii) at the time the contract term commences, the price per million Btu does not exceed \$7.95 in 2008 dollars, adjusted annually based on the change in the Annual Consumer Price Index for All Urban Consumers for the Midwest Region as published in April by the United States Department of Labor, Bureau of Labor Statistics (or a suitable Consumer Price Index calculation if this Consumer Price Index is not available) for the previous calendar year; provided that the price per million Btu shall not exceed \$9.95 at any time during the contract; (iii) the utility's aggregate long-term supply contracts for the purchase of SNG does not exceed 25% of the annual system supply requirements of the utility at the time the contract is entered into and the quantity of SNG supplied to a utility by any one producer may not exceed 20 billion cubic feet per year; and (iv) the contract is entered into within 120 days after the effective date of this amendatory Act of the 96th General Assembly and terminates no more than 20 years after the commencement of the commercial production of SNG at the facility. Contracts greater than 10 years shall provide that if, at any time during supply years 11 through 20 of the contract, the Commission determines that the cost for the synthetic natural gas purchased under the contract during supply years 11 through 20 is not reasonable and prudent, then the company shall reimburse the utility for the difference between the cost deemed reasonable and prudent by the Commission and the cost imposed under the contract. All such contracts, regardless of duration, shall require the owner of any facility supplying SNG under the contract to provide documentation to the Commission each year, starting in the facility's first year of commercial operation, accurately reporting the quantity of carbon dioxide emissions from the facility that have been captured and sequestered and reporting any quantities of carbon dioxide released from the site or sites at which carbon dioxide emissions were sequestered in prior years, based on continuous monitoring of those sites. If, in any year, the owner of the facility fails to demonstrate that the SNG facility captured and sequestered at least 90% of the total carbon dioxide emissions that the facility would otherwise emit or that sequestration of emissions from prior years has failed, resulting in the release of carbon dioxide into the atmosphere, then the owner of the facility must offset excess emissions. Any such carbon dioxide offsets must be permanent, additional, verifiable, real, located within the State of Illinois, and legally and practicably enforceable. The costs of such offsets shall not exceed \$40 million in any given year. No costs of any purchases of carbon offsets may be recovered from a utility or its customers. All carbon offsets purchased for this purpose must be permanently retired. In addition, carbon dioxide emission credits equivalent to 50% of the amount of credits associated with the required sequestration of carbon dioxide from the facility must be permanently retired. Compliance with the sequestration requirements and the offset purchase requirements specified in this subsection (h) shall be assessed annually by an independent expert retained by the owner of the SNG facility, with the advance written approval of the Attorney General. An SNG facility operating pursuant to this subsection (h) shall not forfeit its designation as a clean coal SNG facility if the facility fails to fully comply with the applicable carbon sequestration requirements in any given year, provided the requisite offsets are purchased. However, the Attorney General, on behalf of the People of the State of Illinois, may specifically enforce the facility's sequestration requirements. Except for an initial clean coal facility, as that term is used in item (3) of subsection (d) of Section 1-75 of the Illinois Power Agency Act, an energy facility and a gas facility may enter into a 20-year supply contract, with a company that has commenced construction of a coal gasification facility after July 1, 2010, that shall not be subject to any subsequent prudency review by the Commission if the contract was found prudent at the time the contract was agreed upon by the parties. Any gas utility may enter into a 20 year supply contract with any company for synthetic natural gas produced from coal through the gasification process if the company has commenced construction of a coal gasification facility by July 1, 2008. The cost for the synthetic natural gas is reasonable and prudent and recoverable through the purchased gas adjustment clause for years one through 10 of the contract if: (i) the only coal used in the gasification process has high volatile bituminous rank and greater than 1.7 pounds of sulfur per million Btu content; (ii) at the time the contract term commences, the price per million Btu does not exceed \$5 in 2004 dollars, adjusted annually based on the change in the Annual Consumer Price Index for All Urban Consumers for the Midwest Region as published in April by the United States Department of Labor, Bureau of Labor Statistics (or a suitable Consumer Price Index calculation if this Consumer Price Index is not available) for the previous calendar year; provided that the price per million Btu shall not exceed \$5.50 at any time during the contract; (iii) the utility's aggregate long-term supply contracts for the purchase of synthetic natural gas produced from coal through the gasification process does not exceed 25% of the annual system supply requirements of the utility at the time the contract is entered into; and (iv) the contract is entered into within one year after the effective date of this amendatory Act of the 94th General Assembly and terminates 20 years after the commencement of the production of synthetic natural gas. The contract shall provide that if, at any time during years 11 through 20 of the contract, the Commission

~~determines that the cost for the synthetic natural gas under the contract is not reasonable and prudent, then the company shall reimburse the utility for the difference between the cost deemed reasonable and prudent by the Commission and the cost imposed under the contract.~~

(i) If a gas utility or an affiliate of a gas utility has an ownership interest in any entity that produces or sells synthetic natural gas, Article VII of this Act shall apply.

(Source: P.A. 94-63, eff. 6-21-05.)

(Text of Section after amendment by P.A. 95-1027)

Sec. 9-220. Rate changes based on changes in fuel costs.

(a) Notwithstanding the provisions of Section 9-201, the Commission may authorize the increase or decrease of rates and charges based upon changes in the cost of fuel used in the generation or production of electric power, changes in the cost of purchased power, or changes in the cost of purchased gas through the application of fuel adjustment clauses or purchased gas adjustment clauses. The Commission may also authorize the increase or decrease of rates and charges based upon expenditures or revenues resulting from the purchase or sale of emission allowances created under the federal Clean Air Act Amendments of 1990, through such fuel adjustment clauses, as a cost of fuel. For the purposes of this paragraph, cost of fuel used in the generation or production of electric power shall include the amount of any fees paid by the utility for the implementation and operation of a process for the desulfurization of the flue gas when burning high sulfur coal at any location within the State of Illinois irrespective of the attainment status designation of such location; but shall not include transportation costs of coal (i) except to the extent that for contracts entered into on and after the effective date of this amendatory Act of 1997, the cost of the coal, including transportation costs, constitutes the lowest cost for adequate and reliable fuel supply reasonably available to the public utility in comparison to the cost, including transportation costs, of other adequate and reliable sources of fuel supply reasonably available to the public utility, or (ii) except as otherwise provided in the next 3 sentences of this paragraph. Such costs of fuel shall, when requested by a utility or at the conclusion of the utility's next general electric rate proceeding, whichever shall first occur, include transportation costs of coal purchased under existing coal purchase contracts. For purposes of this paragraph "existing coal purchase contracts" means contracts for the purchase of coal in effect on the effective date of this amendatory Act of 1991, as such contracts may thereafter be amended, but only to the extent that any such amendment does not increase the aggregate quantity of coal to be purchased under such contract. Nothing herein shall authorize an electric utility to recover through its fuel adjustment clause any amounts of transportation costs of coal that were included in the revenue requirement used to set base rates in its most recent general rate proceeding. Cost shall be based upon uniformly applied accounting principles. Annually, the Commission shall initiate public hearings to determine whether the clauses reflect actual costs of fuel, gas, power, or coal transportation purchased to determine whether such purchases were prudent, and to reconcile any amounts collected with the actual costs of fuel, power, gas, or coal transportation prudently purchased. In each such proceeding, the burden of proof shall be upon the utility to establish the prudence of its cost of fuel, power, gas, or coal transportation purchases and costs. The Commission shall issue its final order in each such annual proceeding for an electric utility by December 31 of the year immediately following the year to which the proceeding pertains, provided, that the Commission shall issue its final order with respect to such annual proceeding for the years 1996 and earlier by December 31, 1998.

(b) A public utility providing electric service, other than a public utility described in subsections (e) or (f) of this Section, may at any time during the mandatory transition period file with the Commission proposed tariff sheets that eliminate the public utility's fuel adjustment clause and adjust the public utility's base rate tariffs by the amount necessary for the base fuel component of the base rates to recover the public utility's average fuel and power supply costs per kilowatt-hour for the 2 most recent years for which the Commission has issued final orders in annual proceedings pursuant to subsection (a), where the average fuel and power supply costs per kilowatt-hour shall be calculated as the sum of the public utility's prudent and allowable fuel and power supply costs as found by the Commission in the 2 proceedings divided by the public utility's actual jurisdictional kilowatt-hour sales for those 2 years. Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, the Commission shall review and shall by order approve, or approve as modified, the proposed tariff sheets within 60 days after the date of the public utility's filing. The Commission may modify the public utility's proposed tariff sheets only to the extent the Commission finds necessary to achieve conformance to the requirements of this subsection (b). During the 5 years following the date of the Commission's order, but in any event no earlier than January 1, 2007, a public utility whose fuel adjustment clause has been eliminated pursuant to

this subsection shall not file proposed tariff sheets seeking, or otherwise petition the Commission for, reinstatement of a fuel adjustment clause.

(c) Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, a public utility providing electric service, other than a public utility described in subsection (e) or (f) of this Section, may at any time during the mandatory transition period file with the Commission proposed tariff sheets that establish the rate per kilowatt-hour to be applied pursuant to the public utility's fuel adjustment clause at the average value for such rate during the preceding 24 months, provided that such average rate results in a credit to customers' bills, without making any revisions to the public utility's base rate tariffs. The proposed tariff sheets shall establish the fuel adjustment rate for a specific time period of at least 3 years but not more than 5 years, provided that the terms and conditions for any reinstatement earlier than 5 years shall be set forth in the proposed tariff sheets and subject to modification or approval by the Commission. The Commission shall review and shall by order approve the proposed tariff sheets if it finds that the requirements of this subsection are met. The Commission shall not conduct the annual hearings specified in the last 3 sentences of subsection (a) of this Section for the utility for the period that the factor established pursuant to this subsection is in effect.

(d) A public utility providing electric service, or a public utility providing gas service may file with the Commission proposed tariff sheets that eliminate the public utility's fuel or purchased gas adjustment clause and adjust the public utility's base rate tariffs to provide for recovery of power supply costs or gas supply costs that would have been recovered through such clause; provided, that the provisions of this subsection (d) shall not be available to a public utility described in subsections (e) or (f) of this Section to eliminate its fuel adjustment clause. Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section, or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, the Commission shall review and shall by order approve, or approve as modified in the Commission's order, the proposed tariff sheets within 240 days after the date of the public utility's filing. The Commission's order shall approve rates and charges that the Commission, based on information in the public utility's filing or on the record if a hearing is held by the Commission, finds will recover the reasonable, prudent and necessary jurisdictional power supply costs or gas supply costs incurred or to be incurred by the public utility during a 12 month period found by the Commission to be appropriate for these purposes, provided, that such period shall be either (i) a 12 month historical period occurring during the 15 months ending on the date of the public utility's filing, or (ii) a 12 month future period ending no later than 15 months following the date of the public utility's filing. The public utility shall include with its tariff filing information showing both (1) its actual jurisdictional power supply costs or gas supply costs for a 12 month historical period conforming to (i) above and (2) its projected jurisdictional power supply costs or gas supply costs for a future 12 month period conforming to (ii) above. If the Commission's order requires modifications in the tariff sheets filed by the public utility, the public utility shall have 7 days following the date of the order to notify the Commission whether the public utility will implement the modified tariffs or elect to continue its fuel or purchased gas adjustment clause in force as though no order had been entered. The Commission's order shall provide for any reconciliation of power supply costs or gas supply costs, as the case may be, and associated revenues through the date that the public utility's fuel or purchased gas adjustment clause is eliminated. During the 5 years following the date of the Commission's order, a public utility whose fuel or purchased gas adjustment clause has been eliminated pursuant to this subsection shall not file proposed tariff sheets seeking, or otherwise petition the Commission for, reinstatement or adoption of a fuel or purchased gas adjustment clause. Nothing in this subsection (d) shall be construed as limiting the Commission's authority to eliminate a public utility's fuel adjustment clause or purchased gas adjustment clause in accordance with any other applicable provisions of this Act.

(e) Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section, or in any rules promulgated by the Commission pursuant to subsection (g) of this Section, a public utility providing electric service to more than 1,000,000 customers in this State may, within the first 6 months after the effective date of this amendatory Act of 1997, file with the Commission proposed tariff sheets that eliminate, effective January 1, 1997, the public utility's fuel adjustment clause without adjusting its base rates, and such tariff sheets shall be effective upon filing. To the extent the application of the fuel adjustment clause had resulted in net charges to customers after January 1, 1997, the utility shall also file a tariff sheet that provides for a refund stated on a per kilowatt-hour basis of such charges over a period not to exceed 6 months; provided however, that such refund shall not include the proportional amounts of taxes paid under the Use Tax Act, Service Use Tax Act, Service Occupation Tax

Act, and Retailers' Occupation Tax Act on fuel used in generation. The Commission shall issue an order within 45 days after the date of the public utility's filing approving or approving as modified such tariff sheet. If the fuel adjustment clause is eliminated pursuant to this subsection, the Commission shall not conduct the annual hearings specified in the last 3 sentences of subsection (a) of this Section for the utility for any period after December 31, 1996 and prior to any reinstatement of such clause. A public utility whose fuel adjustment clause has been eliminated pursuant to this subsection shall not file a proposed tariff sheet seeking, or otherwise petition the Commission for, reinstatement of the fuel adjustment clause prior to January 1, 2007.

(f) Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section, or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, a public utility providing electric service to more than 500,000 customers but fewer than 1,000,000 customers in this State may, within the first 6 months after the effective date of this amendatory Act of 1997, file with the Commission proposed tariff sheets that eliminate, effective January 1, 1997, the public utility's fuel adjustment clause and adjust its base rates by the amount necessary for the base fuel component of the base rates to recover 91% of the public utility's average fuel and power supply costs for the 2 most recent years for which the Commission, as of January 1, 1997, has issued final orders in annual proceedings pursuant to subsection (a), where the average fuel and power supply costs per kilowatt-hour shall be calculated as the sum of the public utility's prudent and allowable fuel and power supply costs as found by the Commission in the 2 proceedings divided by the public utility's actual jurisdictional kilowatt-hour sales for those 2 years, provided, that such tariff sheets shall be effective upon filing. To the extent the application of the fuel adjustment clause had resulted in net charges to customers after January 1, 1997, the utility shall also file a tariff sheet that provides for a refund stated on a per kilowatt-hour basis of such charges over a period not to exceed 6 months. Provided however, that such refund shall not include the proportional amounts of taxes paid under the Use Tax Act, Service Use Tax Act, Service Occupation Tax Act, and Retailers' Occupation Tax Act on fuel used in generation. The Commission shall issue an order within 45 days after the date of the public utility's filing approving or approving as modified such tariff sheet. If the fuel adjustment clause is eliminated pursuant to this subsection, the Commission shall not conduct the annual hearings specified in the last 3 sentences of subsection (a) of this Section for the utility for any period after December 31, 1996 and prior to any reinstatement of such clause. A public utility whose fuel adjustment clause has been eliminated pursuant to this subsection shall not file a proposed tariff sheet seeking, or otherwise petition the Commission for, reinstatement of the fuel adjustment clause prior to January 1, 2007.

(g) The Commission shall have authority to promulgate rules and regulations to carry out the provisions of this Section.

(h) Any gas utility may enter into a contract for up to 20 years of supply with any company for the purchase of substitute natural gas (SNG) produced from coal through the gasification process if the company has commenced construction of a coal gasification facility by July 1, 2010. The cost for the SNG is reasonable and prudent and recoverable through the purchased gas adjustment clause for years one through 10 of the contract if: (i) the only coal used in the gasification process has high volatile bituminous rank and greater than 1.7 pounds of sulfur per million Btu content; (ii) at the time the contract term commences, the price per million Btu does not exceed \$7.95 in 2008 dollars, adjusted annually based on the change in the Annual Consumer Price Index for All Urban Consumers for the Midwest Region as published in April by the United States Department of Labor, Bureau of Labor Statistics (or a suitable Consumer Price Index calculation if this Consumer Price Index is not available) for the previous calendar year; provided that the price per million Btu shall not exceed \$9.95 at any time during the contract; (iii) the utility's aggregate long-term supply contracts for the purchase of SNG does not exceed 25% of the annual system supply requirements of the utility at the time the contract is entered into and the quantity of SNG supplied to a utility by any one producer may not exceed 20 billion cubic feet per year; and (iv) the contract is entered into within 120 days after the effective date of this amendatory Act of the 95th General Assembly and terminates no more than 20 years after the commencement of the commercial production of SNG at the facility. Contracts greater than 10 years shall provide that if, at any time during supply years 11 through 20 of the contract, the Commission determines that the cost for the synthetic natural gas purchased under the contract during supply years 11 through 20 is not reasonable and prudent, then the company shall reimburse the utility for the difference between the cost deemed reasonable and prudent by the Commission and the cost imposed under the contract. All such contracts, regardless of duration, shall require the owner of any facility supplying SNG under the contract to provide documentation to the Commission each year, starting in the facility's first year of commercial operation, accurately reporting the quantity of carbon

dioxide emissions from the facility that have been captured and sequestered and reporting any quantities of carbon dioxide released from the site or sites at which carbon dioxide emissions were sequestered in prior years, based on continuous monitoring of those sites. If, in any year, the owner of the facility fails to demonstrate that the SNG facility captured and sequestered at least 90% of the total carbon dioxide emissions that the facility would otherwise emit or that sequestration of emissions from prior years has failed, resulting in the release of carbon dioxide into the atmosphere, then the owner of the facility must offset excess emissions. Any such carbon dioxide offsets must be permanent, additional, verifiable, real, located within the State of Illinois, and legally and practicably enforceable. The costs of such offsets shall not exceed \$40 million in any given year. No costs of any purchases of carbon offsets may be recovered from a utility or its customers. All carbon offsets purchased for this purpose must be permanently retired. In addition, carbon dioxide emission credits equivalent to 50% of the amount of credits associated with the required sequestration of carbon dioxide from the facility must be permanently retired. Compliance with the sequestration requirements and the offset purchase requirements specified in this subsection (h) shall be assessed annually by an independent expert retained by the owner of the SNG facility, with the advance written approval of the Attorney General. An SNG facility operating pursuant to this subsection (h) shall not forfeit its designation as a clean coal SNG facility if the facility fails to fully comply with the applicable carbon sequestration requirements in any given year, provided the requisite offsets are purchased. However, the Attorney General, on behalf of the People of the State of Illinois, may specifically enforce the facility's sequestration requirements. Except for an initial clean coal facility, as that term is used in item (3) of subsection (d) of Section 1-75 of the Illinois Power Agency Act, an energy facility and a gas facility may enter into a 20-year supply contract, with a company that has commenced construction of a coal gasification facility after July 1, 2010, that shall not be subject to any subsequent prudency review by the Commission if the contract was found prudent at the time the contract was agreed upon by the parties.

(i) If a gas utility or an affiliate of a gas utility has an ownership interest in any entity that produces or sells synthetic natural gas, Article VII of this Act shall apply.

(Source: P.A. 94-63, eff. 6-21-05; 95-1027, eff. 6-1-09.)

(220 ILCS 5/15-401)

Sec. 15-401. Licensing.

(a) No person shall operate as a common carrier by pipeline unless the person possesses a certificate in good standing authorizing it to operate as a common carrier by pipeline. No person shall begin or continue construction of a pipeline or other facility, other than the repair or replacement of an existing pipeline or facility, for use in operations as a common carrier by pipeline unless the person possesses a certificate in good standing. A common carrier by pipeline that requests and receives a certificate of good standing related to the proposed construction of a pipeline or other facility under this Section may enter upon, take or damage private property in the manner provided for by the law of eminent domain.

(b) Requirements for issuance. The Commission, after a hearing, shall grant an application for a certificate authorizing operations as a common carrier by pipeline, in whole or in part, to the extent that it finds that the application was properly filed; a public need for the service exists; the applicant is fit, willing, and able to provide the service in compliance with this Act, Commission regulations, and orders; and the public convenience and necessity requires issuance of the certificate. Evidence encompassing the factors set forth in paragraphs (4) and (6) through (9) of this subsection (b) that is submitted by the applicant, any other party, or the Commission's staff, shall be considered by the Commission in determining whether a public need for the service exists under either current or expected conditions.

In its determination of public convenience and necessity for a proposed pipeline or facility designed or intended to transport crude oil and any alternate locations for such proposed pipeline or facility, the Commission shall consider, but not be limited to, the following:

(1) any evidence presented by the Illinois Environmental Protection Agency regarding the environmental impact of the proposed pipeline or other facility;

(2) any evidence presented by the Illinois Department of Transportation regarding the impact of the proposed pipeline or facility on traffic safety, road construction, or other transportation issues;

(3) any evidence presented by the Department of Natural Resources regarding the impact of the proposed pipeline or facility on any conservation areas, forest preserves, wildlife preserves, wetlands, or any other natural resource;

(4) any evidence of the effect of the pipeline upon the economy, infrastructure, and public safety presented by local governmental units that will be affected by the proposed pipeline or facility;

(5) any evidence of the effect of the pipeline upon property values presented by property owners who will be affected by the proposed pipeline or facility, provided, however, that the Commission need not hear evidence as to the actual valuation of property such as that as would be presented to and determined by the courts under the Eminent Domain Act;

(6) any evidence presented by the Department of Commerce and Economic Opportunity regarding the current and future local, State-wide, or regional economic effect, direct or indirect, of the proposed pipeline or facility including, but not limited to, property values, employment rates, and residential and business development; ~~and~~

(7) evidence presented by a State agency or unit of State or local government as to the current and future national, State-wide, or regional economic effects of the proposed pipeline, direct or indirect, as they affect residents or businesses in Illinois, including, but not limited to, such impacts as the ability of manufacturers in Illinois to meet public demand for related services and products and to compete in the national and regional economies, improved access of suppliers to regional and national shipping grids, the ability of the State to access funds made available for energy infrastructure by the federal government, mitigation of foreseeable spikes in price affecting Illinois residents or businesses due to sudden changes in supply or transportation capacity, and the likelihood that the proposed construction will substantially encourage related investment in the State's energy infrastructure and the creation of energy-related jobs;

(8) evidence presented by any state or federal governmental entity as to how the proposed pipeline or facility will affect the security, stability, and reliability of energy in the State or in the region; and

(9) ~~(7)~~ any evidence addressing the above or other relevant factors that is presented by any other State agency or entity that participates in the proceeding including evidence presented by the Commission's Staff.

In its written order, the Commission shall address all of the evidence presented, and if the order is contrary to any of the evidence, the Commission shall state the reasons for its determination with regard to that evidence. The provisions of this amendatory Act of 1996 apply to any certificate granted or denied after the effective date of this amendatory Act of 1996.

The Commission shall make its determination on any application filed pursuant to this Section and issue its final order within 9 months after the date that the application is filed, unless all parties to the proceeding agree in writing to a period of greater than 9 months, and provided that any agreement to extend the 9-month period must be for a specified period of time, not exceeding 60 days. The parties may enter into more than one agreement to extend time. In the event the Commission fails to enter its order within 9 months after the filing of the application, or upon the expiration of the last agreement to extend time, any party may file a complaint in the circuit court for an emergency order of mandamus to direct and compel the Commission to enter its order within 60 days after the expiration of the 9-month period or within 60 days after the expiration of the last agreement to extend time, and the court shall set a schedule to enable the Commission to complete the case and enter an order within the specified time frame. Summons upon the complaint shall be returnable within 5 days. The complaint for an order of mandamus shall be brought in the circuit court in which the pipeline is situated or, if the subject matter of the hearing is situated in more than one circuit, then in any one of those circuits.

(c) An application filed pursuant to this Section may request review of a "project route width" that identifies the areas in which the pipeline would be located, with such width ranging from the minimum width required for a pipeline right-of-way up to 500 feet in width, thus allowing increased flexibility to accommodate specific landowner requests, avoid environmentally sensitive areas, or address special environmental permitting requirements. The applicant must notify all potentially affected landowners within the defined "project route width" of the application using the notification procedures set forth in the Commission's rules for applications under this Section. Upon receiving approval of the "project route width", the common carrier by pipeline must, as it finalizes the actual pipeline alignment within the route, file its final list of affected landowners with the Commission, at least 14 days in advance of beginning construction on any tract within the project route width, and also provide the Commission with at least 14 days notice before filing a complaint for eminent domain in the circuit court with regard to any tract within the project route width.

(d) Within 6 months after the Commission's entry of an order approving a specific "project route width", the common carrier by pipeline that receives such order may file supplemental applications for minor route deviations outside the approved "project route width", allowing for additions or changes to the approved route to address environmental concerns encountered during construction or to accommodate landowner requests. Such route deviations shall be approved by the Commission within 14 days unless a written objection is filed to the supplemental application. Hearings on any supplemental application shall be

limited to the reasonableness of the specific variance proposed, and the issues of public need or public convenience or necessity for the project, or fitness of the applicant, shall not be reopened in such supplemental proceeding.

(e) (e) Duties and obligations of common carriers by pipeline. Each common carrier by pipeline shall provide adequate service to the public at reasonable rates and without discrimination.

(Source: P.A. 94-793, eff. 5-19-06.)

Article 15.

Section 15-4. The Illinois Enterprise Zone Act is amended by changing Section 5.5 as follows:
(20 ILCS 655/5.5) (from Ch. 67 1/2, par. 609.1)

Sec. 5.5. High Impact Business.

(a) In order to respond to unique opportunities to assist in the encouragement, development, growth and expansion of the private sector through large scale investment and development projects, the Department is authorized to receive and approve applications for the designation of "High Impact Businesses" in Illinois subject to the following conditions:

- (1) such applications may be submitted at any time during the year;
- (2) such business is not located, at the time of designation, in an enterprise zone designated pursuant to this Act;
- (3) the business intends to do one or more of the following:

(A) the business intends to make a minimum investment of \$12,000,000 which will be placed in service in qualified property and intends to create 500 full-time equivalent jobs at a designated location in Illinois or intends to make a minimum investment of \$30,000,000 which will be placed in service in qualified property and intends to retain 1,500 full-time jobs at a designated location in Illinois. The business must certify in writing that the investments would not be placed in service in qualified property and the job creation or job retention would not occur without the tax credits and exemptions set forth in subsection (b) of this Section. The terms "placed in service" and "qualified property" have the same meanings as described in subsection (h) of Section 201 of the Illinois Income Tax Act; or

(B) the business intends to establish a new electric generating facility at a designated location in Illinois. "New electric generating facility", for purposes of this Section, means a newly-constructed electric generation plant or a newly-constructed generation capacity expansion at an existing electric generation plant, including the transmission lines and associated equipment that transfers electricity from points of supply to points of delivery, and for which such new foundation construction commenced not sooner than July 1, 2001. Such facility shall be designed to provide baseload electric generation and shall operate on a continuous basis throughout the year; and (i) shall have an aggregate rated generating capacity of at least 1,000 megawatts for all new units at one site if it uses natural gas as its primary fuel and foundation construction of the facility is commenced on or before December 31, 2004, or shall have an aggregate rated generating capacity of at least 400 megawatts for all new units at one site if it uses coal or gases derived from coal as its primary fuel and shall support the creation of at least 150 new Illinois coal mining jobs, or (ii) shall be funded through a federal Department of Energy grant before December 31, 2010 and shall support the creation of Illinois coal-mining jobs, or (iii) shall use coal gasification or integrated gasification-combined cycle units that generate electricity or chemicals, or both, and shall support the creation of Illinois coal-mining jobs. The business must certify in writing that the investments necessary to establish a new electric generating facility would not be placed in service and the job creation in the case of a coal-fueled plant would not occur without the tax credits and exemptions set forth in subsection (b-5) of this Section. The term "placed in service" has the same meaning as described in subsection (h) of Section 201 of the Illinois Income Tax Act; or

(B-5) the business intends to establish a new gasification facility at a designated location in Illinois. As used in this Section, "new gasification facility" means a newly constructed coal gasification facility that generates chemical feedstocks or transportation fuels derived from coal (which may include, but are not limited to, methane, methanol, and nitrogen fertilizer), that supports the creation or retention of Illinois coal-mining jobs, ~~and that qualifies for financial assistance from the Department before December 31, 2010.~~ A new gasification facility does not include a pilot project located within Jefferson County or within a county adjacent to Jefferson County for synthetic natural gas from coal; or

(C) the business intends to establish production operations at a new coal mine,

re-establish production operations at a closed coal mine, or expand production at an existing coal mine at a designated location in Illinois not sooner than July 1, 2001; provided that the production operations result in the creation of 150 new Illinois coal mining jobs as described in subdivision (a)(3)(B) of this Section, and further provided that the coal extracted from such mine is utilized as the predominant source for a new electric generating facility. The business must certify in writing that the investments necessary to establish a new, expanded, or reopened coal mine would not be placed in service and the job creation would not occur without the tax credits and exemptions set forth in subsection (b-5) of this Section. The term "placed in service" has the same meaning as described in subsection (h) of Section 201 of the Illinois Income Tax Act; or

(D) the business intends to construct new transmission facilities or upgrade existing transmission facilities at designated locations in Illinois, for which construction commenced not sooner than July 1, 2001. For the purposes of this Section, "transmission facilities" means transmission lines with a voltage rating of 115 kilovolts or above, including associated equipment, that transfer electricity from points of supply to points of delivery and that transmit a majority of the electricity generated by a new electric generating facility designated as a High Impact Business in accordance with this Section. The business must certify in writing that the investments necessary to construct new transmission facilities or upgrade existing transmission facilities would not be placed in service without the tax credits and exemptions set forth in subsection (b-5) of this Section. The term "placed in service" has the same meaning as described in subsection (h) of Section 201 of the Illinois Income Tax Act; and

(4) no later than 90 days after an application is submitted, the Department shall notify the applicant of the Department's determination of the qualification of the proposed High Impact Business under this Section.

(b) Businesses designated as High Impact Businesses pursuant to subdivision (a)(3)(A) of this Section shall qualify for the credits and exemptions described in the following Acts: Section 9-222 and Section 9-222.1A of the Public Utilities Act, subsection (h) of Section 201 of the Illinois Income Tax Act, and Section 1d of the Retailers' Occupation Tax Act; provided that these credits and exemptions described in these Acts shall not be authorized until the minimum investments set forth in subdivision (a)(3)(A) of this Section have been placed in service in qualified properties and, in the case of the exemptions described in the Public Utilities Act and Section 1d of the Retailers' Occupation Tax Act, the minimum full-time equivalent jobs or full-time jobs set forth in subdivision (a)(3)(A) of this Section have been created or retained. Businesses designated as High Impact Businesses under this Section shall also qualify for the exemption described in Section 51 of the Retailers' Occupation Tax Act. The credit provided in subsection (h) of Section 201 of the Illinois Income Tax Act shall be applicable to investments in qualified property as set forth in subdivision (a)(3)(A) of this Section.

(b-5) Businesses designated as High Impact Businesses pursuant to subdivisions (a)(3)(B), (a)(3)(B-5), (a)(3)(C), and (a)(3)(D) of this Section shall qualify for the credits and exemptions described in the following Acts: Section 51 of the Retailers' Occupation Tax Act, Section 9-222 and Section 9-222.1A of the Public Utilities Act, and subsection (h) of Section 201 of the Illinois Income Tax Act; however, the credits and exemptions authorized under Section 9-222 and Section 9-222.1A of the Public Utilities Act, and subsection (h) of Section 201 of the Illinois Income Tax Act shall not be authorized until the new electric generating facility, the new gasification facility, the new transmission facility, or the new, expanded, or reopened coal mine is operational, except that a new electric generating facility whose primary fuel source is natural gas is eligible only for the exemption under Section 51 of the Retailers' Occupation Tax Act.

(c) High Impact Businesses located in federally designated foreign trade zones or sub-zones are also eligible for additional credits, exemptions and deductions as described in the following Acts: Section 9-221 and Section 9-222.1 of the Public Utilities Act; and subsection (g) of Section 201, and Section 203 of the Illinois Income Tax Act.

(d) Existing Illinois businesses which apply for designation as a High Impact Business must provide the Department with the prospective plan for which 1,500 full-time jobs would be eliminated in the event that the business is not designated.

(e) New proposed facilities which apply for designation as High Impact Business must provide the Department with proof of alternative non-Illinois sites which would receive the proposed investment and job creation in the event that the business is not designated as a High Impact Business.

(f) In the event that a business is designated a High Impact Business and it is later determined after reasonable notice and an opportunity for a hearing as provided under the Illinois Administrative Procedure

Act, that the business would have placed in service in qualified property the investments and created or retained the requisite number of jobs without the benefits of the High Impact Business designation, the Department shall be required to immediately revoke the designation and notify the Director of the Department of Revenue who shall begin proceedings to recover all wrongfully exempted State taxes with interest. The business shall also be ineligible for all State funded Department programs for a period of 10 years.

(g) The Department shall revoke a High Impact Business designation if the participating business fails to comply with the terms and conditions of the designation.

(h) Prior to designating a business, the Department shall provide the members of the General Assembly and Commission on Government Forecasting and Accountability with a report setting forth the terms and conditions of the designation and guarantees that have been received by the Department in relation to the proposed business being designated.

(Source: P.A. 94-65, eff. 6-21-05; 95-18, eff. 7-30-07.)

Section 15-5. The Department of Natural Resources (Conservation) Law of the Civil Administrative Code of Illinois is amended by changing Section 805-15 as follows:

(20 ILCS 805/805-15) (was 20 ILCS 805/63a37)

Sec. 805-15. Rules ~~and regulations~~.

(a) The Department has the power to adopt and enforce rules ~~and regulations~~ necessary to the performance of its statutory duties.

(b) These rules must include a process for expediting the issuance of permits and licenses for projects at energy facilities that are subject to regulation by the Department as of January 1, 2009, as that term is defined in Section 1-10 of the Illinois Power Agency Act. The Department may engage the experts and additional resources that are reasonably necessary for implementing this process. An applicant must request the use of an expedited process, and any additional costs for using that process shall be borne by the applicant.

(Source: P.A. 91-239, eff. 1-1-00.)

Section 15-10. The Department of Transportation Law of the Civil Administrative Code of Illinois is amended by adding Section 2705-20 as follows:

(20 ILCS 2705/2705-20 new)

Sec. 2705-20. Administrative rules.

(a) The Department has the power to adopt and enforce rules necessary to the performance of its statutory duties.

(b) These rules must include a process for expediting the issuance of permits and licenses for projects at energy facilities that are subject to regulation by the Department as of January 1, 2009, as that term is defined in the Illinois Power Agency Act. The Department may engage the experts and additional resources that are reasonably necessary for implementing this process. An applicant must request the use of an expedited process, and any additional costs for using that process shall be borne by the applicant.

Section 15-15. The State Fire Marshal Act is amended by changing Section 2 as follows:

(20 ILCS 2905/2) (from Ch. 127 1/2, par. 2)

Sec. 2. The Office shall have the following powers and duties:

1. To exercise the rights, powers and duties which have been vested by law in the Department of State Police as the successor of the Department of Public Safety, State Fire Marshal, inspectors, officers and employees of the State Fire Marshal, including arson investigation. Arson investigations conducted by the State Fire Marshal's Office shall be conducted by State Fire Marshal Arson Investigator Special Agents, who shall be peace officers as provided in the Peace Officer Fire Investigation Act.

2. To keep a record, as may be required by law, of all fires occurring in the State, together with all facts, statistics and circumstances, including the origin of fires.

3. To exercise the rights, powers and duties which have been vested in the Department of State Police by the "Boiler and Pressure Vessel Safety Act", approved August 7, 1951, as amended.

4. To administer the Illinois Fire Protection Training Act.

5. To aid in the establishment and maintenance of the training facilities and programs of the Illinois Fire Service Institute.

6. To disburse Federal grants for fire protection purposes to units of local government.

7. To pay to or in behalf of the City of Chicago for the maintenance, expenses, facilities and structures directly incident to the Chicago Fire Department training program. Such payments may be made either as reimbursements for expenditures previously made by the City, or as

payments at the time the City has incurred an obligation which is then due and payable for such expenditures. Payments for the Chicago Fire Department training program shall be made only for those expenditures which are not claimable by the City under "An Act relating to fire protection training", certified November 9, 1971, as amended.

8. To administer General Revenue Fund grants to areas not located in a fire protection district or in a municipality which provides fire protection services, to defray the organizational expenses of forming a fire protection district.

9. In cooperation with the Illinois Environmental Protection Agency, to administer the Illinois Leaking Underground Storage Tank program in accordance with Section 4 of this Act and Section 22.12 of the Environmental Protection Act.

10. To expend state and federal funds as appropriated by the General Assembly.

11. To provide technical assistance, to areas not located in a fire protection district or in a municipality which provides fire protection service, to form a fire protection district, to join an existing district, or to establish a municipal fire department, whichever is applicable.

12. To exercise such other powers and duties as may be vested in the Office by law.

13. To adopt rules for the purpose of creating a process for expediting the issuance of permits and licenses for projects at energy facilities, as that term is defined in the Illinois Power Agency Act. The Office may engage the experts and additional resources that are reasonably necessary for implementing this process. An applicant must request the use of an expedited process, and any additional costs for using that process shall be borne by the applicant.

(Source: P.A. 94-178, eff. 1-1-06; 95-502, eff. 8-28-07.)

Section 15-20. The Illinois Income Tax Act is amended by adding Section 218 as follows:

(35 ILCS 5/218 new)

Sec. 218. Tax credit for equipment used at an energy facility. For taxable years ending on or after December 31, 2009, each corporation subject to this Act shall be entitled to a credit against the tax imposed by subsections (a) and (b) of Section 201 of this Act in an amount equal to 10% of the amount spent during the taxable year by the corporation on equipment purchased for use at an energy facility, as that term is defined in Section 1-10 of the Illinois Power Agency Act. For purposes of this credit, the amount spent on the equipment shall be defined as the basis of the equipment used to compute the depreciation deduction for federal income tax purposes.

The credit shall be allowed for the taxable year in which the equipment purchased is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, the excess may be carried forward and applied to the tax liability of the 10 taxable years following the excess credit years. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one taxable year that is available to offset a liability, the earlier credit shall be applied first. This Section is exempt from the provisions of Section 250 of this Act.

Section 15-25. The Use Tax Act is amended by changing Section 3-5 as follows:

(35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

Sec. 3-5. Exemptions. Use of the following tangible personal property is exempt from the tax imposed by this Act:

(1) Personal property purchased from a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise.

(2) Personal property purchased by a not-for-profit Illinois county fair association for use in conducting, operating, or promoting the county fair.

(3) Personal property purchased by a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(4) Personal property purchased by a governmental body, by a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational

purposes, or by a not-for-profit corporation, society, association, foundation, institution, or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes. On and after July 1, 1987, however, no entity otherwise eligible for this exemption shall make tax-free purchases unless it has an active exemption identification number issued by the Department.

(5) Until July 1, 2003, a passenger car that is a replacement vehicle to the extent that the purchase price of the car is subject to the Replacement Vehicle Tax.

(6) Until July 1, 2003 and beginning again on September 1, 2004, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order, certified by the purchaser to be used primarily for graphic arts production, and including machinery and equipment purchased for lease. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(7) Farm chemicals.

(8) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion.

(9) Personal property purchased from a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois.

(10) A motor vehicle of the first division, a motor vehicle of the second division that is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code, that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act.

(11) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (11). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed if the selling price of the tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (11) is exempt from the provisions of Section 3-90.

(12) Fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

(13) Proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages purchased at retail from a retailer, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed.

(14) Until July 1, 2003, and beginning again on the effective date of this amendatory Act of the 96th

General Assembly and thereafter, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(15) Photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(16) Until July 1, 2003, and beginning again on the effective date of this amendatory Act of the 96th General Assembly and thereafter, coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code. For purposes of this item (16), equipment includes roof bolts and explosives.

(17) Until July 1, 2003, distillation machinery and equipment, sold as a unit or kit, assembled or installed by the retailer, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of the user, and not subject to sale or resale.

(18) Manufacturing and assembling machinery and equipment used primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, whether that sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether that sale or lease is made apart from or as an incident to the seller's engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges, or other similar items of no commercial value on special order for a particular purchaser.

(19) Personal property delivered to a purchaser or purchaser's donee inside Illinois when the purchase order for that personal property was received by a florist located outside Illinois who has a florist located inside Illinois deliver the personal property.

(20) Semen used for artificial insemination of livestock for direct agricultural production.

(21) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (21) is exempt from the provisions of Section 3-90, and the exemption provided for under this item (21) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008.

(22) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(23) Personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active sales tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or

the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(24) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

(25) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(26) Beginning July 1, 1999, game or game birds purchased at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 3-90.

(27) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(28) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 3-90.

(29) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 3-90.

(30) Beginning January 1, 2001 and through June 30, 2011, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act.

(31) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the

Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-90.

(32) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active sales tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-90.

(33) On and after July 1, 2003 and through June 30, 2004, the use in this State of motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds and that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, the term "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise, whether for-hire or not.

(34) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 3-90.

(35) Beginning on the effective date of this amendatory Act of the 96th General Assembly, equipment used at an energy facility, as that term is defined in Section 1-10 of the Illinois Power Agency Act, located within the State, including replacement parts and equipment and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(36) Beginning on the effective date of this amendatory Act of the 96th General Assembly, feedstock used at an energy facility, as that term is defined in Section 1-10 of the Illinois Power Agency Act, located in this State.

(Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876, eff. 8-21-08.)

Section 15-30. The Service Use Tax Act is amended by changing Section 3-5 as follows:

(35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

Sec. 3-5. Exemptions. Use of the following tangible personal property is exempt from the tax imposed by this Act:

(1) Personal property purchased from a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise.

(2) Personal property purchased by a non-profit Illinois county fair association for use in conducting, operating, or promoting the county fair.

(3) Personal property purchased by a not-for-profit arts or cultural organization that establishes, by proof

required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(4) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion.

(5) Until July 1, 2003 and beginning again on September 1, 2004, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(6) Personal property purchased from a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois.

(7) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (7). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed if the selling price of the tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (7) is exempt from the provisions of Section 3-75.

(8) Fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

(9) Proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages acquired as an incident to the purchase of a service from a serviceman, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed.

(10) Until July 1, 2003, and beginning again on the effective date of this amendatory Act of the 96th General Assembly and thereafter, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(11) Proceeds from the sale of photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and

equipment purchased for lease.

(12) Until July 1, 2003, and beginning again on the effective date of this amendatory Act of the 96th General Assembly and thereafter, coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code. For purposes of this item (12), equipment includes roof bolts and explosives.

(13) Semen used for artificial insemination of livestock for direct agricultural production.

(14) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (14) is exempt from the provisions of Section 3-75, and the exemption provided for under this item (14) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after the effective date of this amendatory Act of the 95th General Assembly for such taxes paid during the period beginning May 30, 2000 and ending on the effective date of this amendatory Act of the 95th General Assembly.

(15) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(16) Personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or is used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(17) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

(18) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(19) Beginning July 1, 1999, game or game birds purchased at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 3-75.

(20) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(21) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 3-75.

(22) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 3-75.

(23) Beginning August 23, 2001 and through June 30, 2011, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act.

(24) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-75.

(25) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the

Department. This paragraph is exempt from the provisions of Section 3-75.

(26) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 3-75.

(27) Beginning on the effective date of this amendatory Act of the 96th General Assembly, equipment used at an energy facility, as that term is defined in Section 1-10 of the Illinois Power Agency Act, located within the State, including replacement parts and equipment and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(28) Beginning on the effective date of this amendatory Act of the 96th General Assembly, feedstock used at an energy facility, as that term is defined in Section 1-10 of the Illinois Power Agency Act, located in this State.

(Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876, eff. 8-21-08.)

Section 15-35. The Service Occupation Tax Act is amended by changing Section 3-5 as follows:

(35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

Sec. 3-5. Exemptions. The following tangible personal property is exempt from the tax imposed by this Act:

(1) Personal property sold by a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise.

(2) Personal property purchased by a not-for-profit Illinois county fair association for use in conducting, operating, or promoting the county fair.

(3) Personal property purchased by any not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(4) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion.

(5) Until July 1, 2003 and beginning again on September 1, 2004, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(6) Personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois.

(7) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (7). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed if the selling price of the tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (7) is exempt from the provisions of Section 3-55.

(8) Fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

(9) Proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed.

(10) Until July 1, 2003, and beginning again on the effective date of this amendatory Act of the 96th General Assembly and thereafter, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(11) Photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(12) Until July 1, 2003, and beginning again on the effective date of this amendatory Act of the 96th General Assembly and thereafter, coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code. For purposes of this item (12), equipment includes roof bolts and explosives.

(13) Beginning January 1, 1992 and through June 30, 2011, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act.

(14) Semen used for artificial insemination of livestock for direct agricultural production.

(15) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (15) is exempt from the provisions of Section 3-55, and the exemption provided for under this item (15) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 (the effective date of Public Act 95-88) for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008 (the effective date of Public Act 95-88).

(16) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act.

(17) Personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act.

(18) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

(19) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years

ending on or before December 31, 2004, personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(20) Beginning July 1, 1999, game or game birds sold at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 3-55.

(21) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(22) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 3-55.

(23) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 3-55.

(24) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. This paragraph is exempt from the provisions of Section 3-55.

(25) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. This paragraph is exempt from the provisions of Section 3-55.

(26) Beginning on January 1, 2002 and through June 30, 2011, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois (i) for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or (ii) for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. The Director of Revenue shall, pursuant to rules adopted in accordance with the Illinois Administrative Procedure Act, issue a permit to any taxpayer in good standing with the Department who is eligible for the exemption under this paragraph (26). The permit issued under this paragraph (26) shall authorize the holder, to the extent and in the manner specified in the rules adopted under this Act, to purchase tangible personal property from a retailer exempt from the taxes imposed by this Act. Taxpayers

shall maintain all necessary books and records to substantiate the use and consumption of all such tangible personal property outside of the State of Illinois.

(27) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 3-55.

(28) Beginning on the effective date of this amendatory Act of the 96th General Assembly, equipment used at an energy facility, as that term is defined in Section 1-10 of the Illinois Power Agency Act, located within the State, including replacement parts and equipment and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(29) Beginning on the effective date of this amendatory Act of the 96th General Assembly, feedstock used at an energy facility, as that term is defined in Section 1-10 of the Illinois Power Agency Act, located in this State.

(Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876, eff. 8-21-08.)

Section 15-40. The Retailers' Occupation Tax Act is amended by changing Sections 2-5 as follows:

(35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

Sec. 2-5. Exemptions. Gross receipts from proceeds from the sale of the following tangible personal property are exempt from the tax imposed by this Act:

(1) Farm chemicals.

(2) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (2). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed, if the selling price of the tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (7) is exempt from the provisions of Section 2-70.

(3) Until July 1, 2003, distillation machinery and equipment, sold as a unit or kit, assembled or installed by the retailer, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of the user, and not subject to sale or resale.

(4) Until July 1, 2003 and beginning again September 1, 2004, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(5) A motor vehicle of the first division, a motor vehicle of the second division that is a self contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code, that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act. This paragraph is exempt from the provisions of Section 2-70.

(6) Personal property sold by a teacher-sponsored student organization affiliated with an elementary or

secondary school located in Illinois.

(7) Until July 1, 2003, proceeds of that portion of the selling price of a passenger car the sale of which is subject to the Replacement Vehicle Tax.

(8) Personal property sold to an Illinois county fair association for use in conducting, operating, or promoting the county fair.

(9) Personal property sold to a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(10) Personal property sold by a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise.

(11) Personal property sold to a governmental body, to a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, or to a not-for-profit corporation, society, association, foundation, institution, or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes. On and after July 1, 1987, however, no entity otherwise eligible for this exemption shall make tax-free purchases unless it has an active identification number issued by the Department.

(12) Tangible personal property sold to interstate carriers for hire for use as rolling stock moving in interstate commerce or to lessors under leases of one year or longer executed or in effect at the time of purchase by interstate carriers for hire for use as rolling stock moving in interstate commerce and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(12-5) On and after July 1, 2003 and through June 30, 2004, motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise whether for-hire or not.

(13) Proceeds from sales to owners, lessors, or shippers of tangible personal property that is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(14) Machinery and equipment that will be used by the purchaser, or a lessee of the purchaser, primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, whether the sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether the sale or lease is made apart from or as an incident to the seller's engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges, or other similar items of no commercial value on special order for a particular purchaser.

(15) Proceeds of mandatory service charges separately stated on customers' bills for purchase and consumption of food and beverages, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving,

hosting or cleaning up the food or beverage function with respect to which the service charge is imposed.

(16) Petroleum products sold to a purchaser if the seller is prohibited by federal law from charging tax to the purchaser.

(17) Tangible personal property sold to a common carrier by rail or motor that receives the physical possession of the property in Illinois and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois.

(18) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion.

(19) Until July 1 2003, and beginning again on the effective date of this amendatory Act of the 96th General Assembly and thereafter, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(20) Photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(21) Until July 1, 2003, and beginning again on the effective date of this amendatory Act of the 96th General Assembly and thereafter, coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code. For purposes of this item (21), equipment includes roof bolts and explosives.

(22) Fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

(23) A transaction in which the purchase order is received by a florist who is located outside Illinois, but who has a florist located in Illinois deliver the property to the purchaser or the purchaser's donee in Illinois.

(24) Fuel consumed or used in the operation of ships, barges, or vessels that are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if the fuel is delivered by the seller to the purchaser's barge, ship, or vessel while it is afloat upon that bordering river.

(25) Except as provided in item (25-5) of this Section, a motor vehicle sold in this State to a nonresident even though the motor vehicle is delivered to the nonresident in this State, if the motor vehicle is not to be titled in this State, and if a drive-away permit is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his or her home state. The issuance of the drive-away permit or having the out-of-state registration plates to be transferred is prima facie evidence that the motor vehicle will not be titled in this State.

(25-5) The exemption under item (25) does not apply if the state in which the motor vehicle will be titled does not allow a reciprocal exemption for a motor vehicle sold and delivered in that state to an Illinois resident but titled in Illinois. The tax collected under this Act on the sale of a motor vehicle in this State to a resident of another state that does not allow a reciprocal exemption shall be imposed at a rate equal to the state's rate of tax on taxable property in the state in which the purchaser is a resident, except that the tax shall not exceed the tax that would otherwise be imposed under this Act. At the time of the sale, the purchaser shall execute a statement, signed under penalty of perjury, of his or her intent to title the vehicle in the state in which the purchaser is a resident within 30 days after the sale and of the fact of the payment to the State of Illinois of tax in an amount equivalent to the state's rate of tax on taxable property in his or her state of residence and shall submit the statement to the appropriate tax collection agency in his or her state of residence. In addition, the retailer must retain a signed copy of the statement in his or her records. Nothing in this item shall be construed to require the removal of the vehicle from this state following the filing of an intent to title the vehicle in the purchaser's state of residence if the purchaser titles the vehicle in his or her state of residence within 30 days after the date of sale. The tax collected under this Act in accordance with this item (25-5) shall be proportionately distributed as if the tax were collected at the

6.25% general rate imposed under this Act.

(25-7) Beginning on July 1, 2007, no tax is imposed under this Act on the sale of an aircraft, as defined in Section 3 of the Illinois Aeronautics Act, if all of the following conditions are met:

(1) the aircraft leaves this State within 15 days after the later of either the issuance of the final billing for the sale of the aircraft, or the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 C.F.R. 91.407;

(2) the aircraft is not based or registered in this State after the sale of the aircraft; and

(3) the seller retains in his or her books and records and provides to the Department a signed and dated certification from the purchaser, on a form prescribed by the Department, certifying that the requirements of this item (25-7) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require.

For purposes of this item (25-7):

"Based in this State" means hangared, stored, or otherwise used, excluding post-sale customizations as defined in this Section, for 10 or more days in each 12-month period immediately following the date of the sale of the aircraft.

"Registered in this State" means an aircraft registered with the Department of Transportation, Aeronautics Division, or titled or registered with the Federal Aviation Administration to an address located in this State.

This paragraph (25-7) is exempt from the provisions of Section 2-70.

(26) Semen used for artificial insemination of livestock for direct agricultural production.

(27) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (27) is exempt from the provisions of Section 2-70, and the exemption provided for under this item (27) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 (the effective date of Public Act 95-88) for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008 (the effective date of Public Act 95-88).

(28) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of this Act.

(29) Personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of this Act.

(30) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

(31) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(32) Beginning July 1, 1999, game or game birds sold at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 2-70.

(33) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is

determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(34) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 2-70.

(35) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 2-70.

(35-5) Beginning August 23, 2001 and through June 30, 2011, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act.

(36) Beginning August 2, 2001, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph is exempt from the provisions of Section 2-70.

(37) Beginning August 2, 2001, personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph is exempt from the provisions of Section 2-70.

(38) Beginning on January 1, 2002 and through June 30, 2011, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois (i) for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or (ii) for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. The Director of Revenue shall, pursuant to rules adopted in accordance with the Illinois Administrative Procedure Act, issue a permit to any taxpayer in good standing with the Department who is eligible for the exemption under this paragraph (38). The permit issued under this paragraph (38) shall authorize the holder, to the extent and in the manner specified in the rules adopted under this Act, to purchase tangible personal property from a retailer exempt from the taxes imposed by this Act. Taxpayers shall maintain all necessary books and records to substantiate the use and consumption of all such tangible personal property outside of the State of Illinois.

(39) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 2-70.

(40) Beginning on the effective date of this amendatory Act of the 96th General Assembly, equipment used at an energy facility, as that term is defined in Section 1-10 of the Illinois Power Agency Act, located

within the State, including replacement parts and equipment and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(41) Beginning on the effective date of this amendatory Act of the 96th General Assembly, feedstock used at an energy facility, as that term is defined in Section 1-10 of the Illinois Power Agency Act, located in this State.

(Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-233, eff. 8-16-07; 95-304, eff. 8-20-07; 95-538, eff. 1-1-08; 95-707, eff. 1-11-08; 95-876, eff. 8-21-08.)

Section 15-43. The Property Tax Code is amended by adding Section 10-203 as follows:

(35 ILCS 200/10-203 new)

Sec. 10-203. Real property tax; energy facilities. Any real property used by an energy facility, as that term is defined in Section 1-10 of the Illinois Power Agency Act, may be the subject of a real property tax assessment voluntarily entered into between the taxpayer and the taxing districts in which the property is situated. Governing bodies and other appropriate authorities, including county and State board or officials, may be parties to an agreement. Any agreement may provide that an assessment of the real property subject to the agreement, determined in accordance with applicable valuation procedures of this Code, be fixed for a term of years, beginning with the assessment date of the year in which the energy facility begins commercial operations. An agreement may be for a term of years up to, but not exceeding, 20 years. The agreement may also provide that the parties agree not to challenge the assessment as provided in the agreement.

If an agreement is entered into between the parties after the assessment date of the year in which the energy facility begins commercial operations, then the agreement shall not provide for a revision of assessment of the property subject to the agreement for any years prior to the year in which the agreement was entered into by the parties. An agreement may also provide that the parties agree not to initiate revision of assessments of property subject to the agreement for prior assessment years not subject to the agreement for reasons related to the entering into an agreement.

Section 15-45. The Environmental Protection Act is amended by adding Section 28.7 as follows:

(415 ILCS 5/28.7 new)

Sec. 28.7. Expedited process. The rules of the Agency and Board must include a process for expediting the issuance of permits and licenses for projects at energy facilities, as that term is used in Section 1-10 of the Illinois Power Agency Act. The Agency and Board may engage the experts and additional resources that are reasonably necessary for implementing this process. An applicant must request the use of an expedited process, and any additional costs for using that process shall be borne by the applicant.

Section 15-50. The Eminent Domain Act is amended by changing Sections 5-5-5, 15-5-5, and 15-5-25 as follows:

(735 ILCS 30/5-5-5)

Sec. 5-5-5. Exercise of the power of eminent domain; public use; blight.

(a) In addition to all other limitations and requirements, a condemning authority may not take or damage property by the exercise of the power of eminent domain unless it is for a public use, as set forth in this Section.

(a-5) Subsections (b), (c), (d), (e), and (f) of this Section do not apply to the acquisition of property under the O'Hare Modernization Act. A condemning authority may exercise the power of eminent domain for the acquisition or damaging of property under the O'Hare Modernization Act as provided for by law in effect prior to the effective date of this Act.

(a-10) Subsections (b), (c), (d), (e), and (f) of this Section do not apply to the acquisition or damaging of property in furtherance of the goals and objectives of an existing tax increment allocation redevelopment plan. A condemning authority may exercise the power of eminent domain for the acquisition of property in furtherance of an existing tax increment allocation redevelopment plan as provided for by law in effect prior to the effective date of this Act.

As used in this subsection, "existing tax increment allocation redevelopment plan" means a redevelopment plan that was adopted under the Tax Increment Allocation Redevelopment Act (Article 11, Division 74.4 of the Illinois Municipal Code) prior to April 15, 2006 and for which property assembly costs were, before that date, included as a budget line item in the plan or described in the narrative portion of the plan as part of the redevelopment project, but does not include (i) any additional area added to the redevelopment project area on or after April 15, 2006, (ii) any subsequent extension of the completion date of a redevelopment plan beyond the estimated completion date established in that plan prior to April 15, 2006, (iii) any acquisition of property in a conservation area for which the condemnation complaint is filed more than 12 years after the effective date of this Act, or (iv) any acquisition of property in an industrial

park conservation area.

As used in this subsection, "conservation area" and "industrial park conservation area" have the same meanings as under Section 11-74.4-3 of the Illinois Municipal Code.

(b) If the exercise of eminent domain authority is to acquire property for public ownership and control, then the condemning authority must prove that (i) the acquisition of the property is necessary for a public purpose and (ii) the acquired property will be owned and controlled by the condemning authority or another governmental entity.

(c) Except when the acquisition is governed by subsection (b) or is primarily for one of the purposes specified in subsection (d), (e), or (f) and the condemning authority elects to proceed under one of those subsections, if the exercise of eminent domain authority is to acquire property for private ownership or control, or both, then the condemning authority must prove by clear and convincing evidence that the acquisition of the property for private ownership or control is (i) primarily for the benefit, use, or enjoyment of the public and (ii) necessary for a public purpose.

An acquisition of property primarily for the purpose of the elimination of blight is rebuttably presumed to be for a public purpose and primarily for the benefit, use, or enjoyment of the public under this subsection.

Any challenge to the existence of blighting factors alleged in a complaint to condemn under this subsection shall be raised within 6 months of the filing date of the complaint to condemn, and if not raised within that time the right to challenge the existence of those blighting factors shall be deemed waived.

Evidence that the Illinois Commerce Commission has granted a certificate or otherwise made a finding of public convenience and necessity for an acquisition of property (or any right or interest in property) for private ownership or control (including, without limitation, an acquisition for which the use of eminent domain is authorized under the Public Utilities Act, the Telephone Company Act, the Common Carrier by Pipeline Law, or the Electric Supplier Act) to be used for utility purposes, including common carrier purposes, creates a presumption rebuttable only by clear and convincing evidence not available at the time of the proceeding before the Commission, ~~rebuttable presumption~~ that such acquisition of that property (or right or interest in property) is (i) primarily for the benefit, use, or enjoyment of the public and (ii) necessary for a public purpose.

In the case of an acquisition of property (or any right or interest in property) for private ownership or control to be used for utility, pipeline, or railroad purposes for which no certificate or finding of public convenience and necessity by the Illinois Commerce Commission is required, evidence that the acquisition is one for which the use of eminent domain is authorized under one of the following laws creates a rebuttable presumption that the acquisition of that property (or right or interest in property) is (i) primarily for the benefit, use, or enjoyment of the public and (ii) necessary for a public purpose:

- (1) the Public Utilities Act,
- (2) the Telephone Company Act,
- (3) the Electric Supplier Act,
- (4) the Railroad Terminal Authority Act,
- (5) the Grand Avenue Railroad Relocation Authority Act,
- (6) the West Cook Railroad Relocation and Development Authority Act,
- (7) Section 4-505 of the Illinois Highway Code,
- (8) Section 17 or 18 of the Railroad Incorporation Act,
- (9) Section 18c-7501 of the Illinois Vehicle Code, or -
- (10) Section 1-21 of the Illinois Power Agency Act.

(d) If the exercise of eminent domain authority is to acquire property for private ownership or control and if the primary basis for the acquisition is the elimination of blight and the condemning authority elects to proceed under this subsection, then the condemning authority must: (i) prove by a preponderance of the evidence that acquisition of the property for private ownership or control is necessary for a public purpose; (ii) prove by a preponderance of the evidence that the property to be acquired is located in an area that is currently designated as a blighted area or conservation area under an applicable statute; (iii) if the existence of blight or blighting factors is challenged in an appropriate motion filed within 6 months after the date of filing of the complaint to condemn, prove by a preponderance of the evidence that the required blighting factors existed in the area so designated (but not necessarily in the particular property to be acquired) at the time of the designation under item (ii) or at any time thereafter; and (iv) prove by a preponderance of the evidence at least one of the following:

- (A) that it has entered into an express written agreement in which a private person or entity agrees to undertake a development project within the blighted area that specifically details the

reasons for which the property or rights in that property are necessary for the development project;

(B) that the exercise of eminent domain power and the proposed use of the property by the condemning authority are consistent with a regional plan that has been adopted within the past 5 years in accordance with Section 5-14001 of the Counties Code or Section 11-12-6 of the Illinois Municipal Code or with a local land resource management plan adopted under Section 4 of the Local Land Resource Management Planning Act; or

(C) that (1) the acquired property will be used in the development of a project that is consistent with the land uses set forth in a comprehensive redevelopment plan prepared in accordance with the applicable statute authorizing the condemning authority to exercise the power of eminent domain and is consistent with the goals and purposes of that comprehensive redevelopment plan, and (2) an enforceable written agreement, deed restriction, or similar encumbrance has been or will be executed and recorded against the acquired property to assure that the project and the use of the property remain consistent with those land uses, goals, and purposes for a period of at least 40 years, which execution and recording shall be included as a requirement in any final order entered in the condemnation proceeding.

The existence of an ordinance, resolution, or other official act designating an area as blighted is not prima facie evidence of the existence of blight. A finding by the court in a condemnation proceeding that a property or area has not been proven to be blighted does not apply to any other case or undermine the designation of a blighted area or conservation area or the determination of the existence of blight for any other purpose or under any other statute, including without limitation under the Tax Increment Allocation Redevelopment Act (Article 11, Division 74.4 of the Illinois Municipal Code).

Any challenge to the existence of blighting factors alleged in a complaint to condemn under this subsection shall be raised within 6 months of the filing date of the complaint to condemn, and if not raised within that time the right to challenge the existence of those blighting factors shall be deemed waived.

(e) If the exercise of eminent domain authority is to acquire property for private ownership or control and if the primary purpose of the acquisition is one of the purposes specified in item (iii) of this subsection and the condemning authority elects to proceed under this subsection, then the condemning authority must prove by a preponderance of the evidence that: (i) the acquisition of the property is necessary for a public purpose; (ii) an enforceable written agreement, deed restriction, or similar encumbrance has been or will be executed and recorded against the acquired property to assure that the project and the use of the property remain consistent with the applicable purpose specified in item (iii) of this subsection for a period of at least 40 years, which execution and recording shall be included as a requirement in any final order entered in the condemnation proceeding; and (iii) the acquired property will be one of the following:

(1) included in the project site for a residential project, or a mixed-use project including residential units, where not less than 20% of the residential units in the project are made available, for at least 15 years, by deed restriction, long-term lease, regulatory agreement, extended use agreement, or a comparable recorded encumbrance, to low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act;

(2) used primarily for public airport, road, parking, or mass transportation purposes and sold or leased to a private party in a sale-leaseback, lease-leaseback, or similar structured financing;

(3) owned or used by a public utility or electric cooperative for utility purposes;

(4) owned or used by a railroad for passenger or freight transportation purposes;

(5) sold or leased to a private party that operates a water supply, waste water, recycling, waste disposal, waste-to-energy, or similar facility;

(6) sold or leased to a not-for-profit corporation whose purposes include the preservation of open space, the operation of park space, and similar public purposes;

(7) used as a library, museum, or related facility, or as infrastructure related to such a facility;

(8) used by a private party for the operation of a charter school open to the general public; or

(9) a historic resource, as defined in Section 3 of the Illinois State Agency Historic Resources Preservation Act, a landmark designated as such under a local ordinance, or a contributing structure within a local landmark district listed on the National Register of Historic Places, that is being acquired for purposes of preservation or rehabilitation.

(f) If the exercise of eminent domain authority is to acquire property for public ownership and private control and if the primary purpose of the acquisition is one of the purposes specified in item (iii) of this subsection and the condemning authority elects to proceed under this subsection, then the condemning authority must prove by a preponderance of the evidence that: (i) the acquisition of the property is

necessary for a public purpose; (ii) the acquired property will be owned by the condemning authority or another governmental entity; and (iii) the acquired property will be controlled by a private party that operates a business or facility related to the condemning authority's operation of a university, medical district, hospital, exposition or convention center, mass transportation facility, or airport, including, but not limited to, a medical clinic, research and development center, food or commercial concession facility, social service facility, maintenance or storage facility, cargo facility, rental car facility, bus facility, taxi facility, flight kitchen, fixed based operation, parking facility, refueling facility, water supply facility, and railroad tracks and stations.

(g) This Article is a limitation on the exercise of the power of eminent domain, but is not an independent grant of authority to exercise the power of eminent domain.

(Source: P.A. 94-1055, eff. 1-1-07.)

(735 ILCS 30/15-5-5)

Sec. 15-5-5. Eminent domain powers in ILCS Chapters 5 through 40. The following provisions of law may include express grants of the power to acquire property by condemnation or eminent domain:

(5 ILCS 220/3.1); Intergovernmental Cooperation Act; cooperating entities; for Municipal Joint

Action Water Agency purposes.

(5 ILCS 220/3.2); Intergovernmental Cooperation Act; cooperating entities; for Municipal Joint

Action Agency purposes.

(5 ILCS 585/1); National Forest Land Act; United States of America; for national forests.

(15 ILCS 330/2); Secretary of State Buildings in Cook County Act; Secretary of State; for office facilities in Cook County.

(20 ILCS 5/5-675); Civil Administrative Code of Illinois; the Secretary of Transportation, the Director of Natural Resources, and the Director of Central Management Services; for lands, buildings, and grounds for which an appropriation is made by the General Assembly.

(20 ILCS 620/9); Economic Development Area Tax Increment Allocation Act; municipalities; to achieve the objectives of the economic development project.

(20 ILCS 685/1); Particle Accelerator Land Acquisition Act; Department of Commerce and Economic Opportunity; for a federal high energy BEV Particle Accelerator.

(20 ILCS 835/2); State Parks Act; Department of Natural Resources; for State parks.

(20 ILCS 1110/3); Illinois Coal and Energy Development Bond Act; Department of Commerce and Economic Opportunity; for coal projects.

(20 ILCS 1920/2.06); Abandoned Mined Lands and Water Reclamation Act; Department of Natural Resources; for reclamation purposes.

(20 ILCS 1920/2.08); Abandoned Mined Lands and Water Reclamation Act; Department of Natural Resources; for reclamation purposes and for the construction or rehabilitation of housing.

(20 ILCS 1920/2.11); Abandoned Mined Lands and Water Reclamation Act; Department of Natural Resources; for eliminating hazards.

(20 ILCS 3105/9.08a); Capital Development Board Act; Capital Development Board; for lands, buildings and grounds for which an appropriation is made by the General Assembly.

(20 ILCS 3110/5); Building Authority Act; Capital Development Board; for purposes declared by the General Assembly to be in the public interest.

(20 ILCS 3855/1-21) Illinois Power Agency Act; Illinois Power Agency; for construction, maintenance, and operations of energy facilities, and for the purpose of acquiring easements for the delivery, transportation, and storage of CO₂.

(40 ILCS 5/15-167); Illinois Pension Code; State Universities Retirement System; for real estate acquired for the use of the System.

(Source: P.A. 94-1055, eff. 1-1-07.)

(735 ILCS 30/15-5-25)

Sec. 15-5-25. Eminent domain powers in ILCS Chapters 205 through 430. The following provisions of law may include express grants of the power to acquire property by condemnation or eminent domain:

(220 ILCS 5/8-509); Public Utilities Act; public utilities; for construction of certain improvements.

(220 ICLS 5/15-401); Common Carrier by Pipeline Law; common carriers by pipeline for construction of certain pipelines and facilities.

(220 ILCS 15/1); Gas Storage Act; corporations engaged in the distribution, transportation, or storage of natural gas or manufactured gas; for their operations.

(220 ILCS 15/2 and 15/6); Gas Storage Act; corporations engaged in the distribution,

transportation, or storage of natural gas or manufactured gas; for use of an underground geological formation for gas storage.
(220 ILCS 30/13); Electric Supplier Act; electric cooperatives; for general purposes.
(220 ILCS 55/3); Telegraph Act; telegraph companies; for telegraph lines.
(220 ILCS 65/4); Telephone Company Act; telecommunications carriers; for telephone company purposes.
(225 ILCS 435/23); Ferries Act; ferry operators; for a landing, ferryhouse, or approach.
(225 ILCS 440/9); Highway Advertising Control Act of 1971; Department of Transportation; for removal of signs adjacent to highways.
(310 ILCS 5/6 and 5/38); State Housing Act; housing corporations; for general purposes.
(310 ILCS 10/8.3); Housing Authorities Act; housing authorities; for general purposes.
(310 ILCS 10/8.15); Housing Authorities Act; housing authorities; for implementation of conservation plans and demolition.
(310 ILCS 10/9); Housing Authorities Act; housing authorities; for general purposes.
(310 ILCS 20/5); Housing Development and Construction Act; housing authorities; for development or redevelopment.
(310 ILCS 35/2); House Relocation Act; political subdivisions and municipal corporations; for relocation of dwellings for highway construction.
(315 ILCS 5/14); Blighted Areas Redevelopment Act of 1947; land clearance commissions; for redevelopment projects.
(315 ILCS 10/5); Blighted Vacant Areas Development Act of 1949; State of Illinois; for housing development.
(315 ILCS 20/9 and 20/42); Neighborhood Redevelopment Corporation Law; neighborhood redevelopment corporations; for general purposes.
(315 ILCS 25/4 and 25/6); Urban Community Conservation Act; municipal conservation boards; for conservation areas.
(315 ILCS 30/12); Urban Renewal Consolidation Act of 1961; municipal departments of urban renewal; for blighted area redevelopment projects.
(315 ILCS 30/20 and 30/22); Urban Renewal Consolidation Act of 1961; municipal departments of urban renewal; for implementing conservation areas.
(315 ILCS 30/24); Urban Renewal Consolidation Act of 1961; municipal departments of urban renewal; for general purposes.
(415 ILCS 95/6); Junkyard Act; Department of Transportation; for junkyards or scrap processing facilities.
(420 ILCS 35/1); Radioactive Waste Storage Act; Illinois Emergency Management Agency; for radioactive by-product and waste storage.
(Source: P.A. 94-1055, eff. 1-1-07.)

Article 99.

Section 99-995. 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 99-997. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 99-999. Effective date. This Act takes effect July 1, 2009."

AMENDMENT NO. 2. Amend House Bill 3854, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Carbon Capture and Sequestration Legislation Commission Act.

Section 5. Definitions. As used in this Act:

"CO₂" means carbon dioxide.

"Commission" means the Carbon Capture and Sequestration Legislation Commission.

"Director" means the Director of the Illinois Power Agency.

Section 10. Creation of the Carbon Capture and Sequestration Legislation Commission.

(a) The Carbon Capture and Sequestration Legislation Commission is created and shall consist of 11

members, including the Director, who shall serve as the ex-officio chairperson of the Commission.

(b) The remaining 10 members of the Commission shall be appointed as follows:

- (1) one member shall be appointed by the Speaker of the House of Representatives;
- (2) one member shall be appointed by the President of the Senate;
- (3) one member shall be appointed by the Minority Leader of the House of Representatives;
- (4) one member shall be appointed by the Minority Leader of the Senate;
- (5) one member shall be the Chairperson of the Illinois Commerce Commission, or his or her designee; and
- (5) 5 members shall be appointed by the Governor.

(c) The appointments made by the Governor shall include one member with legal expertise, one member with engineering expertise, one member with financial expertise, one member representing the employer community, and one member representing the environmental community.

(d) The Director may retain services from outside parties with legal, engineering, and financial expertise to assist the Commission in carrying out its duties.

(e) The Illinois Commerce Commission may assist the Director in staffing and administering the Commission.

(f) Commission members are not eligible to receive compensation or reimbursement of expenses.

Section 15. Report on carbon capture and sequestration legislation.(a) The Commission shall file a report no later than December 31, 2010 with the General Assembly on all issues deemed appropriate to carbon capture and sequestration legislation, including, but not limited to, the following:

- (1) Ownership of the CO₂.
- (2) Liability for release of CO₂.
- (3) Acquisition and ownership of pore space.
- (4) Procedures and safeguards for the transportation and sequestration of CO₂.
- (5) Methodology to establish any necessary fees, costs, or offsets.
- (6) Potential use of CO₂.
- (7) Construction of pipelines.
- (8) Coordination with applicable federal law or regulatory commissions.

(b) The Commission shall be abolished upon filing its report with the General Assembly.

Section 20. Repealer. This Act is repealed on January 1, 2011.

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

The foregoing message from the Senate reporting Senate Amendments numbered 1 and 2 to HOUSE BILL 3854 was placed on the Calendar on the order of Concurrence.

A message from the Senate by
Ms. Rock, Secretary:

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

HOUSE BILL 3874

A bill for AN ACT concerning professional regulation.

Together with the attached amendments thereto (which amendments have been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 3874

Senate Amendment No. 2 to HOUSE BILL NO. 3874

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 3874 by replacing lines 7 through 26 on page 2 and line 1 on page 3 with the following:

"(6) Has ~~(i)~~ a minimum of 3 years experience during ~~of~~ the 5 years immediately preceding the application (i) working as a full-time manager for a licensed private alarm contractor agency, or (ii) working for a government or private ~~an~~ entity that inspects, reviews, designs, sells, installs, operates, services, or monitors alarm systems that, in the judgment of the Board, satisfies the standards of alarm industry competence ~~or a minimum of 10 years experience working for a licensed private alarm contractor~~

~~agency or for an entity that designs, sells, installs, services, or monitors alarm systems that, in the judgment of the Board, satisfies the standards of alarm industry competence, has successfully completed a National Institute for Certification of Engineering Technologies (NICET) level 2 certification examination, and applies on or before July 1, 2007. An applicant who has received a"~~

AMENDMENT NO. 2. Amend House Bill 3874 on page 1, by replacing line 6 with the following: "amended by changing Sections 5-10, 20-10, 20-20, 35-30, and 50-10 as follows:"; and on page 1, immediately below line 6, by inserting the following:

"(225 ILCS 447/5-10)

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

Sec. 5-10. Definitions. As used in this Act:

"Advertisement" means any printed material that is published in a phone book, newspaper, magazine, pamphlet, newsletter, or other similar type of publication that is intended to either attract business or merely provide contact information to the public for an agency or licensee. Advertisement shall include any material disseminated by printed or electronic means or media, but shall not include a licensee's or an agency's letterhead, business cards, or other stationery used in routine business correspondence or customary name, address, and number type listings in a telephone directory.

"Alarm system" means any system, including an electronic access control system, a surveillance video system, a security video system, a burglar alarm system, a fire alarm system, an emergency communication system, mass notification system, or any other electronic system ~~;~~ that activates an audible, visible, remote, or recorded signal that is designed for the protection or detection of intrusion, entry, theft, fire, vandalism, escape, or trespass , or other electronic systems designed for the protection of life by indicating the existence of an emergency situation.

"Armed employee" means a licensee or registered person who is employed by an agency licensed or an armed proprietary security force registered under this Act who carries a weapon while engaged in the performance of official duties within the course and scope of his or her employment during the hours and times the employee is scheduled to work or is commuting between his or her home or place of employment, provided that commuting is accomplished within one hour from departure from home or place of employment.

"Armed proprietary security force" means a security force made up of 5 or more armed individuals employed by a private, commercial, or industrial operation or one or more armed individuals employed by a financial institution as security officers for the protection of persons or property.

"Board" means the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Board.

"Branch office" means a business location removed from the place of business for which an agency license has been issued, including, but not limited to, locations where active employee records that are required to be maintained under this Act are kept, where prospective new employees are processed, or where members of the public are invited in to transact business. A branch office does not include an office or other facility located on the property of an existing client that is utilized solely for the benefit of that client and is not owned or leased by the agency.

"Canine handler" means a person who uses or handles a trained dog to protect persons or property or to conduct investigations.

"Canine handler authorization card" means a card issued by the Department that authorizes the holder to use or handle a trained dog to protect persons or property or to conduct investigations during the performance of his or her duties as specified in this Act.

"Canine trainer" means a person who acts as a dog trainer for the purpose of training dogs to protect persons or property or to conduct investigations.

"Canine trainer authorization card" means a card issued by the Department that authorizes the holder to train a dog to protect persons or property or to conduct investigations during the performance of his or her duties as specified in this Act.

"Canine training facility" means a facility operated by a licensed private detective agency or private security agency wherein dogs are trained for the purposes of protecting persons or property or to conduct investigations.

"Corporation" means an artificial person or legal entity created by or under the authority of the laws of a state, including without limitation a corporation, limited liability company, or any other legal entity.

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

"Emergency communication system" means any system that communicates information about

emergencies, including but not limited to fire, terrorist activities, shootings, other dangerous situations, accidents, and natural disasters.

"Employee" means a person who works for a person or agency that has the right to control the details of the work performed and is not dependent upon whether or not federal or state payroll taxes are withheld.

"Fingerprint vendor" means a person that offers, advertises, or provides services to fingerprint individuals, through electronic or other means, for the purpose of providing fingerprint images and associated demographic data to the Department of State Police for processing fingerprint based criminal history record information inquiries.

"Fingerprint vendor agency" means a person, firm, corporation, or other legal entity that engages in the fingerprint vendor business and employs, in addition to the fingerprint vendor licensee-in-charge, at least one other person in conducting that business.

"Fingerprint vendor licensee-in-charge" means a person who has been designated by a fingerprint vendor agency to be the licensee-in-charge of an agency who is a full-time management employee or owner who assumes sole responsibility for maintaining all records required by this Act and who assumes sole responsibility for assuring the licensed agency's compliance with its responsibilities as stated in this Act. The Department shall adopt rules mandating licensee-in-charge participation in agency affairs.

"Fire alarm system" means any system that is activated by an automatic or manual device in the detection of smoke, heat, or fire that activates an audible, visible, or remote signal requiring a response.

"Firearm control card" means a card issued by the Department that authorizes the holder, who has complied with the training and other requirements of this Act, to carry a weapon during the performance of his or her duties as specified in this Act.

"Firm" means an unincorporated business entity, including but not limited to proprietorships and partnerships.

"Locksmith" means a person who engages in a business or holds himself out to the public as providing a service that includes, but is not limited to, the servicing, installing, originating first keys, re-coding, repairing, maintaining, manipulating, or bypassing of a mechanical or electronic locking device, access control or video surveillance system at premises, vehicles, safes, vaults, safe deposit boxes, or automatic teller machines.

"Locksmith agency" means a person, firm, corporation, or other legal entity that engages in the locksmith business and employs, in addition to the locksmith licensee-in-charge, at least one other person in conducting such business.

"Locksmith licensee-in-charge" means a person who has been designated by agency to be the licensee-in-charge of an agency, who is a full-time management employee or owner who assumes sole responsibility for maintaining all records required by this Act, and who assumes sole responsibility for assuring the licensed agency's compliance with its responsibilities as stated in this Act. The Department shall adopt rules mandating licensee-in-charge participation in agency affairs.

"Mass notification system" means any system that is used to provide information and instructions to people in a building or other space using voice communications, including visible signals, text, graphics, tactile, or other communication methods.

"Peace officer" or "police officer" means a person who, by virtue of office or public employment, is vested by law with a duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses. Officers, agents, or employees of the federal government commissioned by federal statute to make arrests for violations of federal laws are considered peace officers.

"Permanent employee registration card" means a card issued by the Department to an individual who has applied to the Department and meets the requirements for employment by a licensed agency under this Act.

"Person" means a natural person.

"Private alarm contractor" means a person who engages in a business that individually or through others undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to sell, install, design, monitor, maintain, alter, repair, replace, or service alarm and other security-related systems or parts thereof, including fire alarm systems, at protected premises or premises to be protected or responds to alarm systems at a protected premises on an emergency basis and not as a full-time security officer. "Private alarm contractor" does not include a person, firm, or corporation that manufactures or sells alarm systems only from its place of business and does not sell, install, monitor, maintain, alter, repair, replace, service, or respond to alarm systems at protected premises or premises to be protected.

"Private alarm contractor agency" means a person, corporation, or other entity that engages in the private alarm contracting business and employs, in addition to the private alarm contractor-in-charge, at least one

other person in conducting such business.

"Private alarm contractor licensee-in-charge" means a person who has been designated by an agency to be the licensee-in-charge of an agency, who is a full-time management employee or owner who assumes sole responsibility for maintaining all records required by this Act, and who assumes sole responsibility for assuring the licensed agency's compliance with its responsibilities as stated in this Act. The Department shall adopt rules mandating licensee-in-charge participation in agency affairs.

"Private detective" means any person who by any means, including, but not limited to, manual, canine odor detection, or electronic methods, engages in the business of, accepts employment to furnish, or agrees to make or makes investigations for a fee or other consideration to obtain information relating to:

- (1) Crimes or wrongs done or threatened against the United States, any state or territory of the United States, or any local government of a state or territory.
- (2) The identity, habits, conduct, business occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movements, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person, firm, or other entity by any means, manual or electronic.
- (3) The location, disposition, or recovery of lost or stolen property.
- (4) The cause, origin, or responsibility for fires, accidents, or injuries to individuals or real or personal property.
- (5) The truth or falsity of any statement or representation.
- (6) Securing evidence to be used before any court, board, or investigating body.
- (7) The protection of individuals from bodily harm or death (bodyguard functions).
- (8) Service of process in criminal and civil proceedings without court order.

"Private detective agency" means a person, firm, corporation, or other legal entity that engages in the private detective business and employs, in addition to the licensee-in-charge, one or more persons in conducting such business.

"Private detective licensee-in-charge" means a person who has been designated by an agency to be the licensee-in-charge of an agency, who is a full-time management employee or owner who assumes sole responsibility for maintaining all records required by this Act, and who assumes sole responsibility for assuring the licensed agency's compliance with its responsibilities as stated in this Act. The Department shall adopt rules mandating licensee-in-charge participation in agency affairs.

"Private security contractor" means a person who engages in the business of providing a private security officer, watchman, patrol, guard dog, canine odor detection, or a similar service by any other title or name on a contractual basis for another person, firm, corporation, or other entity for a fee or other consideration and performing one or more of the following functions:

- (1) The prevention or detection of intrusion, entry, theft, vandalism, abuse, fire, or trespass on private or governmental property.
- (2) The prevention, observation, or detection of any unauthorized activity on private or governmental property.
- (3) The protection of persons authorized to be on the premises of the person, firm, or other entity for which the security contractor contractually provides security services.
- (4) The prevention of the misappropriation or concealment of goods, money, bonds, stocks, notes, documents, or papers.
- (5) The control, regulation, or direction of the movement of the public for the time specifically required for the protection of property owned or controlled by the client.
- (6) The protection of individuals from bodily harm or death (bodyguard functions).

"Private security contractor agency" means a person, firm, corporation, or other legal entity that engages in the private security contractor business and that employs, in addition to the licensee-in-charge, one or more persons in conducting such business.

"Private security contractor licensee-in-charge" means a person who has been designated by an agency to be the licensee-in-charge of an agency, who is a full-time management employee or owner who assumes sole responsibility for maintaining all records required by this Act, and who assumes sole responsibility for assuring the licensed agency's compliance with its responsibilities as stated in this Act. The Department shall adopt rules mandating licensee-in-charge participation in agency affairs.

"Public member" means a person who is not a licensee or related to a licensee, or who is not an employer or employee of a licensee. The term "related to" shall be determined by the rules of the Department.

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

(Source: P.A. 95-613, eff. 9-11-07.); and

on page 3, immediately below line 25, by inserting the following:

"(225 ILCS 447/20-20)

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

Sec. 20-20. Training; private alarm contractor and employees.

(a) Registered employees of the private alarm contractor agency who carry a firearm and respond to alarm systems shall complete, within 30 days of their employment, a minimum of 20 hours of classroom training provided by a qualified instructor and shall include all of the following subjects:

- (1) The law regarding arrest and search and seizure as it applies to the private alarm industry.
- (2) Civil and criminal liability for acts related to the private alarm industry.
- (3) The use of force, including but not limited to the use of nonlethal force (i.e., disabling spray, baton, stungun, or similar weapon).
- (4) Arrest and control techniques.
- (5) The offenses under the Criminal Code of 1961 that are directly related to the protection of persons and property.
- (6) The law on private alarm forces and on reporting to law enforcement agencies.
- (7) Fire prevention, fire equipment, and fire safety.
- (8) Civil rights and public relations.
- (9) The identification of terrorists, acts of terrorism, and terrorist organizations, as defined by federal and State statutes.

Pursuant to directives set forth by the U.S. Department of Homeland Security and the provisions set forth by the National Fire Protection Association in the National Fire Alarm Code and the Life Safety Code, training may include the installation, repair, and maintenance of emergency communication systems and mass notification systems.

(b) All other employees of a private alarm contractor agency shall complete a minimum of 20 hours of training provided by a qualified instructor within 30 days of their employment. The substance of the training shall be related to the work performed by the registered employee.

(c) It is the responsibility of the employer to certify, on forms provided by the Department, that the employee has successfully completed the training. The form shall be a permanent record of training completed by the employee and shall be placed in the employee's file with the employer for the term the employee is retained by the employer. A private alarm contractor agency may place a notarized copy of the Department form in lieu of the original into the permanent employee registration card file. The form shall be returned to the employee when his or her employment is terminated. Failure to return the form to the employee is grounds for discipline. The employee shall not be required to complete the training required under this Act once the employee has been issued a form.

(d) Nothing in this Act prevents any employer from providing or requiring additional training beyond the required 20 hours that the employer feels is necessary and appropriate for competent job performance.

(e) Any certification of completion of the 20-hour basic training issued under the Private Detective, Private Alarm, Private Security, and Locksmith Act of 1993 or any prior Act shall be accepted as proof of training under this Act.

(Source: P.A. 95-613, eff. 9-11-07.)

(225 ILCS 447/35-30)

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

Sec. 35-30. Employee requirements. All employees of a licensed agency, other than those exempted, shall apply for a permanent employee registration card. The holder of an agency license issued under this Act, known in this Section as "employer", may employ in the conduct of his or her business employees under the following provisions:

(a) No person shall be issued a permanent employee registration card who:

- (1) Is younger than 18 years of age.
- (2) Is younger than 21 years of age if the services will include being armed.
- (3) Has been determined by the Department to be unfit by reason of conviction of an offense in this or another state, other than a traffic offense. The Department shall adopt rules for making those determinations that shall afford the applicant due process of law.
- (4) Has had a license or permanent employee registration card denied, suspended, or revoked under this Act (i) within one year before the date the person's application for permanent employee registration card is received by the Department; and (ii) that refusal, denial, suspension, or revocation was based on any provision of this Act other than Section 40-50, item (6) or (8) of subsection

(a) of Section 15-10, subsection (b) of Section 15-10, item (6) or (8) of subsection (a) of Section 20-10, subsection (b) of Section 20-10, item (6) or (8) of subsection (a) of Section 25-10, subsection (b) of Section 25-10, item (7) of subsection (a) of Section 30-10, subsection (b) of Section 30-10, or Section 10-40.

(5) Has been declared incompetent by any court of competent jurisdiction by reason of mental disease or defect and has not been restored.

(6) Has been dishonorably discharged from the armed services of the United States.

(b) No person may be employed by a private detective agency, private security contractor agency, private alarm contractor agency, fingerprint vendor agency, or locksmith agency under this Section until he or she has executed and furnished to the employer, on forms furnished by the Department, a verified statement to be known as "Employee's Statement" setting forth:

(1) The person's full name, age, and residence address.

(2) The business or occupation engaged in for the 5 years immediately before the date of the execution of the statement, the place where the business or occupation was engaged in, and the names of employers, if any.

(3) That the person has not had a license or employee registration denied, revoked, or suspended under this Act (i) within one year before the date the person's application for permanent employee registration card is received by the Department; and (ii) that refusal, denial, suspension, or revocation was based on any provision of this Act other than Section 40-50, item (6) or (8) of subsection (a) of Section 15-10, subsection (b) of Section 15-10, item (6) or (8) of subsection (a) of Section 20-10, subsection (b) of Section 20-10, item (6) or (8) of subsection (a) of Section 25-10, subsection (b) of Section 25-10, item (7) of subsection (a) of Section 30-10, subsection (b) of Section 30-10, or Section 10-40.

(4) Any conviction of a felony or misdemeanor.

(5) Any declaration of incompetence by a court of competent jurisdiction that has not been restored.

(6) Any dishonorable discharge from the armed services of the United States.

(7) Any other information as may be required by any rule of the Department to show the good character, competency, and integrity of the person executing the statement.

(c) Each applicant for a permanent employee registration card shall have his or her fingerprints submitted to the Department of State Police in an electronic format that complies with the form and manner for requesting and furnishing criminal history record information as prescribed by the Department of State Police. These fingerprints shall be checked against the Department of State Police and Federal Bureau of Investigation criminal history record databases now and hereafter filed. The Department of State Police shall charge applicants a fee for conducting the criminal history records check, which shall be deposited in the State Police Services Fund and shall not exceed the actual cost of the records check. The Department of State Police shall furnish, pursuant to positive identification, records of Illinois convictions to the Department. The Department may require applicants to pay a separate fingerprinting fee, either to the Department or directly to the vendor. The Department, in its discretion, may allow an applicant who does not have reasonable access to a designated vendor to provide his or her fingerprints in an alternative manner. The Department, in its discretion, may also use other procedures in performing or obtaining criminal background checks of applicants. Instead of submitting his or her fingerprints, an individual may submit proof that is satisfactory to the Department that an equivalent security clearance has been conducted. Also, an individual who has retired as a peace officer within 12 months of application may submit verification, on forms provided by the Department and signed by his or her employer, of his or her previous full-time employment as a peace officer.

(d) The Department shall issue a permanent employee registration card, in a form the Department prescribes, to all qualified applicants. The holder of a permanent employee registration card shall carry the card at all times while actually engaged in the performance of the duties of his or her employment. Expiration and requirements for renewal of permanent employee registration cards shall be established by rule of the Department. Possession of a permanent employee registration card does not in any way imply that the holder of the card is employed by an agency unless the permanent employee registration card is accompanied by the employee identification card required by subsection (f) of this Section.

(e) Each employer shall maintain a record of each employee that is accessible to the duly authorized representatives of the Department. The record shall contain the following information:

(1) A photograph taken within 10 days of the date that the employee begins employment

with the employer. The photograph shall be replaced with a current photograph every 3 calendar years.

(2) The Employee's Statement specified in subsection (b) of this Section.

(3) All correspondence or documents relating to the character and integrity of the employee received by the employer from any official source or law enforcement agency.

(4) In the case of former employees, the employee identification card of that person issued under subsection (f) of this Section. Each employee record shall duly note if the employee is employed in an armed capacity. Armed employee files shall contain a copy of an active firearm owner's identification card and a copy of an active firearm control card. Each employer shall maintain a record for each armed employee of each instance in which the employee's weapon was discharged during the course of his or her professional duties or activities. The record shall be maintained on forms provided by the Department, a copy of which must be filed with the Department within 15 days of an instance. The record shall include the date and time of the occurrence, the circumstances involved in the occurrence, and any other information as the Department may require. Failure to provide this information to the Department or failure to maintain the record as a part of each armed employee's permanent file is grounds for disciplinary action. The Department, upon receipt of a report, shall have the authority to make any investigation it considers appropriate into any occurrence in which an employee's weapon was discharged and to take disciplinary action as may be appropriate.

(5) The Department may, by rule, prescribe further record requirements.

(f) Every employer shall furnish an employee identification card to each of his or her employees. This employee identification card shall contain a recent photograph of the employee, the employee's name, the name and agency license number of the employer, the employee's personal description, the signature of the employer, the signature of that employee, the date of issuance, and an employee identification card number.

(g) No employer may issue an employee identification card to any person who is not employed by the employer in accordance with this Section or falsely state or represent that a person is or has been in his or her employ. It is unlawful for an applicant for registered employment to file with the Department the fingerprints of a person other than himself or herself.

(h) Every employer shall obtain the identification card of every employee who terminates employment with him or her.

(i) Every employer shall maintain a separate roster of the names of all employees currently working in an armed capacity and submit the roster to the Department on request.

(j) No agency may employ any person to perform a licensed activity under this Act unless the person possesses a valid permanent employee registration card or a valid license under this Act, or is exempt pursuant to subsection (n).

(k) Notwithstanding the provisions of subsection (j), an agency may employ a person in a temporary capacity if all of the following conditions are met:

(1) The agency completes in its entirety and submits to the Department an application for a permanent employee registration card, including the required fingerprint receipt and fees.

(2) The agency has verification from the Department that the applicant has no record of any criminal conviction pursuant to the criminal history check conducted by the Department of State Police. The agency shall maintain the verification of the results of the Department of State Police criminal history check as part of the employee record as required under subsection (e) of this Section.

(3) The agency exercises due diligence to ensure that the person is qualified under the requirements of the Act to be issued a permanent employee registration card.

(4) The agency maintains a separate roster of the names of all employees whose applications are currently pending with the Department and submits the roster to the Department on a monthly basis. Rosters are to be maintained by the agency for a period of at least 24 months.

An agency may employ only a permanent employee applicant for which it either submitted a permanent employee application and all required forms and fees or it confirms with the Department that a permanent employee application and all required forms and fees have been submitted by another agency, licensee or the permanent employee and all other requirements of this Section are met.

The Department shall have the authority to revoke, without a hearing, the temporary authority of an individual to work upon receipt of Federal Bureau of Investigation fingerprint data or a report of another official authority indicating a criminal conviction. If the Department has not received a temporary employee's Federal Bureau of Investigation fingerprint data within 120 days of the date the Department received the Department of State Police fingerprint data, the Department may, at its discretion, revoke the employee's temporary authority to work with 15 days written notice to the individual and the employing agency.

An agency may not employ a person in a temporary capacity if it knows or reasonably should have

known that the person has been convicted of a crime under the laws of this State, has been convicted in another state of any crime that is a crime under the laws of this State, has been convicted of any crime in a federal court, or has been posted as an unapproved applicant by the Department. Notice by the Department to the agency, via certified mail, personal delivery, electronic mail, or posting on the Department's Internet site accessible to the agency that the person has been convicted of a crime shall be deemed constructive knowledge of the conviction on the part of the agency. The Department may adopt rules to implement this subsection (k).

(l) No person may be employed under this Section in any capacity if:

(1) the person, while so employed, is being paid by the United States or any political subdivision for the time so employed in addition to any payments he or she may receive from the employer; or

(2) the person wears any portion of his or her official uniform, emblem of authority, or equipment while so employed.

(m) If information is discovered affecting the registration of a person whose fingerprints were submitted under this Section, the Department shall so notify the agency that submitted the fingerprints on behalf of that person.

(n) Peace officers shall be exempt from the requirements of this Section relating to permanent employee registration cards. The agency shall remain responsible for any peace officer employed under this exemption, regardless of whether the peace officer is compensated as an employee or as an independent contractor and as further defined by rule.

(o) Persons who have no access to confidential or security information, who do not go to a client's or prospective client's residence or place of business, and who otherwise do not provide traditional security services are exempt from employee registration. Examples of exempt employees include, but are not limited to, employees working in the capacity of ushers, directors, ticket takers, cashiers, drivers, and reception personnel. Confidential or security information is that which pertains to employee files, scheduling, client contracts, or technical security and alarm data.

(Source: P.A. 95-331, eff. 8-21-07; 95-613, eff. 9-11-07.)

(225 ILCS 447/50-10)

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

Sec. 50-10. The Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Board.

(a) The Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Board shall consist of 13 members appointed by the Director and comprised of 2 licensed private detectives, 3 licensed private security contractors, one licensed private detective or licensed private security contractor who provides canine odor detection services, 2 licensed private alarm contractors, one licensed fingerprint vendor, 2 licensed locksmiths, one public member who is not licensed or registered under this Act and who has no connection with a business licensed under this Act, and one member representing the employees registered under this Act. Each member shall be a resident of Illinois. Except for the initial appointment of a licensed fingerprint vendor after the effective date of this amendatory Act of the 95th General Assembly, each licensed member shall have at least 5 years experience as a licensee in the professional area in which the person is licensed and be in good standing and actively engaged in that profession. In making appointments, the Director shall consider the recommendations of the professionals and the professional organizations representing the licensees. The membership shall reasonably reflect the different geographic areas in Illinois.

(b) Members shall serve 4 year terms and may serve until their successors are appointed. No member shall serve for more than 2 successive terms. Appointments to fill vacancies shall be made in the same manner as the original appointments for the unexpired portion of the vacated term. Members of the Board in office on the effective date of this Act pursuant to the Private Detective, Private Alarm, Private Security, and Locksmith Act of 1993 shall serve for the duration of their terms and may be appointed for one additional term.

(c) A member of the Board may be removed for cause. A member subject to formal disciplinary proceedings shall disqualify himself or herself from all Board business until the charge is resolved. A member also shall disqualify himself or herself from any matter on which the member cannot act objectively.

(d) Members shall receive compensation as set by law. Each member shall receive reimbursement as set by the Governor's Travel Control Board for expenses incurred in carrying out the duties as a Board member.

(e) A majority of the appointed Board members constitutes a quorum. A majority vote of the quorum is required for a decision.

(f) The Board shall elect a chairperson and vice chairperson.

(g) Board members are not liable for their acts, omissions, decisions, or other conduct in connection with their duties on the Board, except those determined to be willful, wanton, or intentional misconduct.

(h) The Board may recommend policies, procedures, and rules relevant to the administration and enforcement of this Act.

(Source: P.A. 95-613, eff. 9-11-07.)".

The foregoing message from the Senate reporting Senate Amendments numbered 1 and 2 to HOUSE BILL 3874 was placed on the Calendar on the order of Concurrence.

A message from the Senate by

Ms. Rock, Secretary:

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

HOUSE BILL 3767

A bill for AN ACT concerning public health.

Together with the attached amendment thereto (which amendment has been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 3767

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 3767 as follows:

on page 3, line 17, after "adults.", by inserting "Communities in Illinois are developing and implementing promising models that should be evaluated and supported."; and

on page 3, line 21, by replacing "a holistic" with "an evidence-based, holistic"; and

on page 4, line 6, after "nutrition,", by inserting "effective methods for improving nutrition and physical activity,"; and

on page 4, by replacing line 10 with the following:

"activity, including improving community access to healthy food and safe opportunities for physical activity."; and

by replacing line 12 on page 4 through line 1 on page 5 with the following:

"after the effective date of this Act, and subject to the availability of public, private, and contributed in-kind resources, the Department of Public Health shall work with the Department of Human Services and other public, private, and voluntary stakeholders to plan, organize, and publicize at least 3 hearings on the health and social costs of obesity and the need to address the obesity epidemic with community, policy, and individual health behavior change. The purpose of these hearings shall be to (1) highlight existing State and community level initiatives, (2) identify existing plans and opportunities for action and the expansion of initiatives, (3) inform policy makers and the public about effective solutions to the problem, and (4) identify and engage stakeholders to promote action to reduce obesity, improve nutrition, and increase physical activity. The hearing officers shall include: the Chair of the State Board of Health or her designee and up to 3 additional members of the State Board of Health; the Chair of the Chronic Disease Task Force, if appointed, and up to 3 additional members of the Chronic Disease Task Force, if appointed; 2 members of the House of Representatives, one of whom shall be named by the Speaker of the House and one of whom shall be named by the Minority Leader of the House; and 2 members of the Senate, one of whom shall be named by the President of the Senate and one of whom shall be named by the Minority Leader of the Senate. The Department shall provide or work with stakeholders to provide logistical and support staff for hearings."; and

on page 5, by replacing lines 2 through 6 with the following:

"No later than February 1, 2010, and subject to the availability of public, private, and contributed in-kind resources, a report on these hearings shall be provided to the members of the General Assembly and the State Board of Health to inform and support action on implementing the"; and

on page 5, by replacing lines 10 and 11 with the following:

"General Assembly."; and
on page 5, by replacing lines 17 and 18 with the following:
"education and engagement campaign focusing on the health effects of obesity, the social costs of obesity,
and".

The foregoing message from the Senate reporting Senate Amendment No. 1 to HOUSE BILL 3767
was placed on the Calendar on the order of Concurrence.

A message from the Senate by
Ms. Rock, Secretary:

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

HOUSE BILL 3325

A bill for AN ACT concerning transportation.

Together with the attached amendment thereto (which amendment has been printed by the Senate),
in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 3325

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 3325 by replacing everything after the enacting clause
with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Sections 3-412 and 12-503 as follows:
(625 ILCS 5/3-412) (from Ch. 95 1/2, par. 3-412)

Sec. 3-412. Registration plates and registration stickers to be furnished by the Secretary of State.

(a) The Secretary of State upon registering a vehicle subject to annual registration for the first time shall
issue or shall cause to be issued to the owner one registration plate for a motorcycle, trailer, semitrailer,
motorized pedalcycle or truck-tractor, 2 registration plates for other motor vehicles and, where applicable,
current registration stickers for motor vehicles of the first division. The provisions of this Section may be
made applicable to such vehicles of the second division, as the Secretary of State may, from time to time, in
his discretion designate. On subsequent annual registrations during the term of the registration plate as
provided in Section 3-414.1, the Secretary shall issue or cause to be issued registration stickers as evidence
of current registration. However, the issuance of annual registration stickers to vehicles registered under the
provisions of Sections 3-402.1 and 3-405.3 of this Code may not be required if the Secretary deems the
issuance unnecessary.

(b) Every registration plate shall have displayed upon it the registration number assigned to the vehicle
for which it is issued, the name of this State, which may be abbreviated, the year number for which it was
issued, which may be abbreviated, the phrase "Land of Lincoln" (except as otherwise provided in this
Code), and such other letters or numbers as the Secretary may prescribe. However, for apportionment
plates issued to vehicles registered under Section 3-402.1 and fleet plates issued to vehicles registered
under Section 3-405.3, the phrase "Land of Lincoln" may be omitted to allow for the word "apportioned",
the word "fleet", or other similar language to be displayed. Registration plates issued to a vehicle registered
as a fleet vehicle may display a designation determined by the Secretary.

The Secretary may in his discretion prescribe that letters be used as prefixes only on registration plates
issued to vehicles of the first division which are registered under this Code and only as suffixes on
registration plates issued to other vehicles. Every registration sticker issued as evidence of current
registration shall designate the year number for which it is issued and such other letters or numbers as the
Secretary may prescribe and shall be of a contrasting color with the registration plates and registration
stickers of the previous year.

(c) Each registration plate and the required letters and numerals thereon, except the year number for
which issued, shall be of sufficient size to be plainly readable from a distance of 100 feet during daylight,
and shall be coated with reflectorizing material. The dimensions of the plate issued to vehicles of the first
division shall be 6 by 12 inches.

(d) The Secretary of State shall issue for every passenger motor vehicle rented without a driver the same
type of registration plates as the type of plates issued for a private passenger vehicle.

(e) The Secretary of State shall issue for every passenger car used as a taxicab or livery, distinctive registration plates.

(f) The Secretary of State shall issue for every motorcycle distinctive registration plates distinguishing between motorcycles having 150 or more cubic centimeters piston displacement, or having less than 150 cubic centimeter piston displacement.

(g) Registration plates issued to vehicles for-hire may display a designation as determined by the Secretary that such vehicles are for-hire.

(h) The Secretary of State shall issue distinctive registration plates for electric vehicles.

(i) The Secretary of State shall issue for every public and private ambulance registration plates identifying the vehicle as an ambulance. The Secretary shall forward to the Department of Healthcare and Family Services registration information for the purpose of verification of claims filed with the Department by ambulance owners for payment for services to public assistance recipients.

(j) The Secretary of State shall issue for every public and private medical carrier or rescue vehicle livery registration plates displaying numbers within ranges of numbers reserved respectively for medical carriers and rescue vehicles. The Secretary shall forward to the Department of Healthcare and Family Services registration information for the purpose of verification of claims filed with the Department by owners of medical carriers or rescue vehicles for payment for services to public assistance recipients.

(k) The Secretary of State shall issue distinctive license plates or distinctive license plate stickers for every vehicle exempted from ~~subsections subsection (a) and (a-5)~~ of Section 12-503 by subsection (g) of that Section, and by subsection (g-5) of that Section before its deletion by this amendatory Act of the 95th General Assembly. The Secretary shall issue these plates or stickers immediately upon receiving the physician's certification required under subsection (g) of Section 12-503. New plates or stickers shall also be issued when the certification is renewed as provided in that subsection.

(Source: P.A. 94-239, eff. 1-1-06; 94-564, eff. 8-12-05; 95-202, eff. 8-16-07; 95-331, eff. 8-21-07.)

(625 ILCS 5/12-503) (from Ch. 95 1/2, par. 12-503)

Sec. 12-503. Windshields must be unobstructed and equipped with wipers.

(a) No person shall drive a motor vehicle with any sign, poster, window application, reflective material, nonreflective material or tinted film upon the front windshield, ~~except that a sidewings or side windows immediately adjacent to each side of the driver.~~ A nonreflective tinted film may be used along the uppermost portion of the windshield if such material does not extend more than 6 inches down from the top of the windshield. ~~Nothing in this Section shall create a cause of action on behalf of a buyer against a dealer or manufacturer who sells a motor vehicle with a window which is in violation of this Section.~~

(a-5) No window treatment or tinting shall be applied to the windows immediately adjacent to each side of the driver, except:

(1) on vehicles where none of the windows to the rear of the driver's seat are treated in a manner that allows less than 30% light transmittance, a nonreflective tinted film that allows at least 50% light transmittance, with a 5% variance observed by any law enforcement official metering the light transmittance, may be used on the side windows immediately adjacent to each side of the driver.

(2) on vehicles where none of the windows to the rear of the driver's seat are treated in a manner that allows less than 35% light transmittance, a nonreflective tinted film that allows at least 35% light transmittance, with a 5% variance observed by any law enforcement official metering the light transmittance, may be used on the side windows immediately adjacent to each side of the driver.

(3) on multipurpose passenger vehicles, as defined by Section 1-148.3b of this Code, a nonreflective tinted film originally applied by the manufacturer, that allows at least 50% light transmittance, with a 5% variance observed by any law enforcement official metering the light transmittance, may be used on the side windows immediately adjacent to each side of the driver.

(b) On motor vehicles where window treatment has not been applied to the windows immediately adjacent to each side of the driver, Nothing contained in this Section shall prohibit the use of a nonreflective, smoked or tinted glass, nonreflective film, perforated window screen or other decorative window application on windows to the rear of the driver's seat shall be allowed, except that any motor vehicle with a window to the rear of the driver's seat treated in this manner shall be equipped with a side mirror on each side of the motor vehicle which are in conformance with Section 12-502.

(c) No person shall drive a motor vehicle with any objects placed or suspended between the driver and the front windshield, rear window, side wings or side windows immediately adjacent to each side of the driver which materially obstructs the driver's view.

(d) Every motor vehicle, except motorcycles, shall be equipped with a device, controlled by the driver, for cleaning rain, snow, moisture or other obstructions from the windshield; and no person shall drive a

motor vehicle with snow, ice, moisture or other material on any of the windows or mirrors, which materially obstructs the driver's clear view of the highway.

(e) No person shall drive a motor vehicle when the windshield, side or rear windows are in such defective condition or repair as to materially impair the driver's view to the front, side or rear. A vehicle equipped with a side mirror on each side of the vehicle which are in conformance with Section 12-502 will be deemed to be in compliance in the event the rear window of the vehicle is materially obscured.

(f) Paragraphs (a), ~~(a-5)~~, and (b) of this Section shall not apply to:

(1) ~~(Blank). motor vehicles manufactured prior to January 1, 1982; or~~

(2) to those motor vehicles properly registered in another jurisdiction.

(g) ~~Paragraphs~~ Paragraph (a) ~~and (a-5)~~ of this Section shall not apply to ~~any motor vehicle with a window treatment, including but not limited to a window application, reflective material, nonreflective material, or tinted film, applied or affixed to a motor vehicle for which distinctive license plates or license plate stickers have been issued pursuant to subsection (k) of Section 3-412 of this Code, and which:~~ that:

(1) is owned and operated by a person afflicted with or suffering from a medical ~~illness, ailment, or~~ disease, including but not limited to systemic or discoid lupus erythematosus, disseminated superficial actinic porokeratosis, or albinism, which would require that person to be shielded from the direct rays of the sun; or

(2) is used in transporting a person when the person resides at the same address as the registered owner of the vehicle and the person is afflicted with or suffering from a medical ~~illness, ailment or~~ disease which would require the person to be shielded from the direct rays of the sun, including but not limited to systemic or discoid lupus erythematosus, disseminated superficial actinic porokeratosis, or albinism.

The owner must obtain a certified statement or letter written by a physician licensed to practice medicine in Illinois that such person owning and operating or being transported in a motor vehicle is afflicted with or suffers from such ~~illness, ailment, or~~ disease, including but not limited to systemic or discoid lupus erythematosus, disseminated superficial actinic porokeratosis, or albinism. However, no exemption from the requirements of subsection (a-5) shall be granted for any condition, such as light sensitivity, for which protection from the direct rays of the sun can be adequately obtained by the use of sunglasses or other eye protective devices.

~~Such, and such~~ certification must be carried in the motor vehicle at all times. The certification shall be legible and shall contain the date of issuance, the name, address and signature of the attending physician, and the name, address, and medical condition of the person requiring exemption. The information on the certificate for a window treatment must remain current and shall be renewed annually by the attending physician. The owner shall also submit a copy of the certification to the Secretary of State. The Secretary of State may forward notice of certification to law enforcement agencies.

(g-5) (Blank).

(g-7) Installers shall only install window treatment authorized by subsection (g) on motor vehicles for which distinctive plates or license plate stickers have been issued pursuant to subsection (k) of Section 3-412 of this Code. The distinctive license plates or plate sticker must be on the motor vehicle at the time of window treatment installation.

(h) Paragraph (a) of this Section shall not apply to motor vehicle stickers or other certificates issued by State or local authorities which are required to be displayed upon motor vehicle windows to evidence compliance with requirements concerning motor vehicles.

(i) ~~(Blank). Those motor vehicles exempted under paragraph (f)(1) of this Section shall not cause their windows to be treated as described in paragraph (a) after January 1, 1993.~~

(j) A person found guilty of violating paragraphs (a), ~~(a-5)~~, (b), or ~~(g-7) (i)~~ of this Section shall be guilty of a petty offense and fined no less than \$50 nor more than \$500. A second or subsequent violation of paragraphs (a), ~~(a-5)~~, (b), or ~~(g-7) (i)~~ of this Section shall be treated as a Class C misdemeanor and the violator fined no less than \$100 nor more than \$500. Any person convicted under paragraphs (a), ~~(a-5)~~, or (b) ~~, or (i)~~ of this Section shall be ordered to alter any nonconforming windows into compliance with this Section.

(k) Nothing in this Section shall create a cause of action on behalf of a buyer against a vehicle dealer or manufacturer who sells a motor vehicle with a window which is in violation of this Section.

(Source: P.A. 94-564, eff. 8-12-05; 95-202, eff. 8-16-07.)

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

The foregoing message from the Senate reporting Senate Amendment No. 1 to HOUSE BILL 3325 was placed on the Calendar on the order of Concurrence.

A message from the Senate by
Ms. Rock, Secretary:
Mr. Speaker -- I am directed to inform the House of Representatives that the Senate has concurred with the House of Representatives in the passage of a bill of the following title to-wit:
HOUSE BILL 2537
A bill for AN ACT concerning criminal law.
Together with the attached amendments thereto (which amendments have been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:
Senate Amendment No. 1 to HOUSE BILL NO. 2537
Senate Amendment No. 2 to HOUSE BILL NO. 2537
Senate Amendment No. 3 to HOUSE BILL NO. 2537
Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 2537 on page 1, line 14, by inserting after the period the following:
"This prohibition applies only to the initial uploading of the electronic nude image to the Internet, and shall not apply to any subsequent forwarding, linking to, storage, or viewing of that image."

AMENDMENT NO. 2. Amend House Bill 2537 on page 1, line 19, by inserting after the period the following:
"This prohibition applies only to the initial dissemination of the video recording, and shall not apply to any subsequent dissemination, storage, or viewing of that image."

AMENDMENT NO. 3. Amend House Bill 2537 on page 2, line 3, by deleting "or"; and on page 2, line 6, by replacing "11-20.1." with "11-20.1; or"; and by inserting immediately below line 6 the following:
"(3) Any depiction of a nude image that would be protected as free speech under either the First Amendment to the United States Constitution or Article I, Section 4 of the Illinois Constitution."

The foregoing message from the Senate reporting Senate Amendments numbered 1, 2 and 3 to HOUSE BILL 2537 was placed on the Calendar on the order of Concurrence.

A message from the Senate by
Ms. Rock, Secretary:
Mr. Speaker -- I am directed to inform the House of Representatives that the Senate has concurred with the House of Representatives in the passage of a bill of the following title to-wit:
HOUSE BILL 2440
A bill for AN ACT concerning professional regulation.
Together with the attached amendment thereto (which amendment has been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:
Senate Amendment No. 2 to HOUSE BILL NO. 2440
Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 2. Amend House Bill 2440 by replacing everything after the enacting clause with the following:
"Section 5. The Regulatory Sunset Act is amended by changing Section 4.20 and adding Section 4.30 as

follows:

(5 ILCS 80/4.20)

Sec. 4.20. Acts repealed on January 1, 2010 and December 31, 2010.

(a) 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.

(b) The following Act is repealed on December 31, 2010:

The Medical Practice Act of 1987.

(Source: P.A. 95-1018, eff. 12-18-08.)

(5 ILCS 80/4.30 new)

Sec. 4.30. Acts repealed on January 1, 2020. The following Acts are repealed on January 1, 2020:

The Orthotics, Prosthetics, and Pedorthics Practice Act.

The Perfusionist Practice Act.

Section 10. The Orthotics, Prosthetics, and Pedorthics Practice Act is amended by changing Sections 5, 10, 15, 20, 25, 40, 55, 57, 60, 70, 80, 85, 90, 95, 100, 105, 110, 115, 120, 125, 130, 135, 150, and 160 and by adding Sections 77, 103, and 107 as follows:

(225 ILCS 84/5)

(Section scheduled to be repealed on January 1, 2010)

Sec. 5. Declaration of public policy. The practice of orthotics and prosthetics in the State of Illinois is an allied health profession ~~recognized by the American Medical Association~~, with educational standards established by the Commission on Accreditation of Allied Health Education Programs. The practice of pedorthics in the State of Illinois is an allied health profession with educational standards established by the National Commission on Orthotic and Prosthetic Education ~~recognized by the American Academy of Orthopaedic Surgeons, with educational standards established by the Board for Certification in Pedorthics~~. The increasing population of elderly and physically challenged individuals who need orthotic, prosthetic, and pedorthic services requires that the orthotic, prosthetic, and pedorthic professions be regulated to ensure the provision of high-quality services and devices. The people of Illinois deserve the best care available, and will benefit from the assurance of initial and ongoing professional competence of the orthotists, prosthetists, and pedorthists practicing in this State. The practice of orthotics, prosthetics, and pedorthics serves to improve and enhance the lives of individuals with disabilities by enabling them to resume productive lives following serious illness, injury, or trauma. Unregulated dispensing of orthotic, prosthetic, and pedorthic care does not adequately meet the needs or serve the interests of the public. In keeping with State requirements imposed on similar health disciplines, licensure of the orthotic, prosthetic, and pedorthic professions will help ensure the health and safety of consumers, as well as maximize their functional abilities and productivity levels. This Act shall be liberally construed to best carry out these subjects and purposes.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/10)

(Section scheduled to be repealed on January 1, 2010)

Sec. 10. Definitions. As used in this Act:

"Accredited facility" means a facility which has been accredited by the Center for Medicare Medicaid Services to practice prosthetics, orthotics or pedorthics and which represents itself to the public by title or description of services that includes the term "prosthetic", "prosthetist", "artificial limb", "orthotic", "orthotist", "brace", "pedorthic", "pedorthist" or a similar title or description of services.

"Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file maintained by the Department's licensure maintenance unit. It is the duty of the applicant or licensee to inform the Department of any change of address, and such changes must be made either through the Department's website or by contacting the Department.

"Assistant" means a person who is educated and trained to participate in comprehensive orthotic or

prosthetic care while under the supervision, as defined by rule, of a licensed orthotist or licensed prosthetist. Assistants may perform orthotic or prosthetic procedures and related tasks in the management of patient care. Assistants may also fabricate, repair, and maintain orthoses and prostheses ~~assists an orthotist, prosthetist, or prosthetist/orthotist with patient care services and fabrication of orthoses or prostheses under the supervision of a licensed orthotist or prosthetist.~~

"Board" means the Board of Orthotics, Prosthetics, and Pedorthics.

"Custom fabricated device" means an orthosis, prosthesis, or pedorthic device fabricated to comprehensive measurements or a mold or patient model for use by a patient in accordance with a prescription and which requires clinical and technical judgment in its design, fabrication, and fitting.

"Custom fitted device" means an orthosis, prosthesis, or pedorthic device made to patient measurements sized or modified for use by the patient in accordance with a prescription and which requires clinical and technical judgment and substantive alteration in its design. ~~"Custom" means that an orthosis, prosthesis, or pedorthic device is designed, fabricated, and aligned specifically for one person in accordance with sound biomechanical principles.~~

~~"Custom fitted" means that a prefabricated orthosis, prosthesis, or pedorthic device is modified and aligned specifically for one person in accordance with sound biomechanical principles.~~

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

~~"Director" means the Director of Professional Regulation.~~

"Facility" means the business location where orthotic, prosthetic, or pedorthic care is provided and, in the case of an orthotic/prosthetic facility, has the appropriate clinical and laboratory space and equipment to provide comprehensive orthotic or prosthetic care and, in the case of a pedorthic facility, has the appropriate clinical space and equipment to provide pedorthic care. Licensed orthotists, prosthetists, and pedorthists must be available to either provide care or supervise the provision of care by unlicensed registered staff.

"Licensed orthotist" or "LO" means a person licensed under this Act to practice orthotics and who represents himself or herself to the public by title or description of services that includes the term "orthotic", "orthotist", "brace", or a similar title or description of services.

"Licensed pedorthist" or "LPed" means a person licensed under this Act to practice pedorthics and who represents himself or herself to the public by the title or description of services that include the term "pedorthic", "pedorthist", or a similar title or description of services.

"Licensed physician" means a person licensed under the Medical Practice Act of 1987.

"Licensed podiatrist" means a person licensed under the Podiatric Medical Practice Act of 1987.

"Licensed prosthetist" or "LP" means a person licensed under this Act to practice prosthetics and who represents himself or herself to the public by title or description of services that includes the term "prosthetic", "prosthetist", "artificial limb", or a similar title or description of services.

"Off-the-shelf device" means a prefabricated orthosis, prosthesis, or pedorthic device sized or modified for use by the patient in accordance with a prescription and that does not require substantial clinical judgment and substantive alteration for appropriate use.

"Orthosis" means a custom-fabricated or custom-fitted brace or support designed to provide for alignment, correction, or prevention of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity. "Orthosis" does not include fabric or elastic supports, corsets, arch supports, low-temperature plastic splints, trusses, elastic hoses, canes, crutches, soft cervical collars, dental appliances, or other similar devices carried in stock and sold as "over-the-counter" items by a drug store, department store, corset shop, or surgical supply facility.

"Orthotic and Prosthetic Education Program" means a course of instruction accredited by the Commission on Accreditation of Allied Health Education Programs, consisting of (i) a basic curriculum of college level instruction in math, physics, biology, chemistry, and psychology and (ii) a specific curriculum in orthotic or prosthetic courses, including: (A) lectures covering pertinent anatomy, biomechanics, pathomechanics, prosthetic-orthotic components and materials, training and functional capabilities, prosthetic or orthotic performance evaluation, prescription considerations, etiology of amputations and disease processes necessitating prosthetic or orthotic use, and medical management; (B) subject matter related to pediatric and geriatric problems; (C) instruction in acute care techniques, such as immediate and early post-surgical prosthetics and fracture bracing techniques; and (D) lectures, demonstrations, and laboratory experiences related to the entire process of measuring, casting, fitting, fabricating, aligning, and completing prostheses or orthoses.

"Orthotic and prosthetic scope of practice" means a list of tasks, with relative weight given to such factors as importance, criticality, and frequency, based on internationally accepted standards of orthotic and

prosthetic care as outlined by the International Society of Prosthetics and Orthotics' professional profile for Category I and Category III orthotic and prosthetic personnel.

"Orthotics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing an orthosis under an order from a licensed physician or podiatrist for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity.

"Orthotist" means a health care professional, specifically educated and trained in orthotic patient care, who measures, designs, fabricates, fits, or services orthoses and may assist in the formulation of the order and treatment plan of orthoses for the support or correction of disabilities caused by neuro-musculoskeletal diseases, injuries, or deformities. ~~person who measures, designs, fabricates, fits, or services orthoses and assists in the formulation of the order of orthoses as ordered by a licensed physician for the support or correction of disabilities caused by neuro-musculoskeletal diseases, injuries, or deformities.~~

"Over-the-counter" means a prefabricated, mass-produced device that is prepackaged and requires no professional advice or judgment in either size selection or use, including fabric or elastic supports, corsets, generic arch supports, elastic hoses.

"Pedorthic device" means therapeutic shoes (e.g. diabetic shoes and inserts), shoe modifications made for therapeutic purposes, below the ankle partial foot prostheses, and foot orthoses for use at the ankle or below. It also includes subtalar-control foot orthoses designed to manage the function of the anatomy by controlling the range of motion of the subtalar joint. Excluding footwear, the proximal height of a custom pedorthic device does not extend beyond the junction of the gastrocnemius and the Achilles tendon. Pedorthic devices do not include non-therapeutic inlays or footwear regardless of method of manufacture; unmodified, non-therapeutic over-the-counter shoes; or prefabricated foot care products. "Therapeutic" devices address a medical condition, diagnosed by a prescribing medical professional, while "non-therapeutic" devices do not address a medical condition. ~~footwear, foot orthoses for use at the ankle or below, and modified footwear made for therapeutic purposes. "Pedorthic device" does not include non-therapeutic accommodative inlays or non-therapeutic accommodative footwear, regardless of method of manufacture, shoe modifications made for non-therapeutic purposes, unmodified, over-the-counter shoes, or prefabricated foot care products.~~

"Pedorthic education program" means an educational program accredited by the National Commission on Orthotic and Prosthetic Education ~~a course of instruction accredited by the Board for Certification in Pedorthics~~ consisting of (i) a basic curriculum of instruction in foot-related pathology of diseases, anatomy, and biomechanics and (ii) a specific curriculum in pedorthic courses, including lectures covering shoes, foot orthoses, and shoe modifications, pedorthic components and materials, training and functional capabilities, pedorthic performance evaluation, prescription considerations, etiology of disease processes necessitating use of pedorthic devices, medical management, subject matter related to pediatric and geriatric problems, and lectures, demonstrations, and laboratory experiences related to the entire process of measuring and casting, fitting, fabricating, aligning, and completing pedorthic devices.

"Pedorthic scope of practice" means a list of tasks with relative weight given to such factors as importance, criticality, and frequency based on nationally accepted standards of pedorthic care as outlined by the National Commission on Orthotic and Prosthetic Education ~~Board for Certification in Pedorthics'~~ comprehensive analysis with an empirical validation study of the profession performed by an independent testing company.

"Pedorthics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a pedorthic device under an order from a licensed physician or podiatrist for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity.

"Pedorthist" means a health care professional, specifically educated and trained in pedorthic patient care, who measures, designs, fabricates, fits, or services pedorthic devices and may assist in the formulation of the order and treatment plan of pedorthic devices for the support or correction of disabilities caused by neuro-musculoskeletal diseases, injuries, or deformities. ~~person who measures, designs, fabricates, fits, or services pedorthic devices and assists in the formulation of the order of pedorthic devices as ordered by a licensed physician for the support or correction of disabilities caused by neuro-musculoskeletal diseases, injuries, or deformities.~~

"Person" means a natural person.

"Prosthesis" means an artificial medical device that is not surgically implanted and that is used to replace a missing limb, appendage, or any other external human body part including an artificial limb, hand, or foot. "Prosthesis" does not include artificial eyes, ears, fingers, or toes, dental appliances, cosmetic devices such as artificial breasts, eyelashes, or wigs, or other devices that do not have a significant impact on the

musculoskeletal functions of the body.

"Prosthetics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a prosthesis under an order from a licensed physician.

"Prosthetist" means a health care professional, specifically educated and trained in prosthetic patient care, who measures, designs, fabricates, fits, or services prostheses and may assist in the formulation of the order and treatment plan of prostheses for the replacement of external parts of the human body lost due to amputation or congenital deformities or absences. ~~person who measures, designs, fabricates, fits, or services prostheses and assists in the formulation of the order of prostheses as ordered by a licensed physician for the replacement of external parts of the human body lost due to amputation or congenital deformities or absences.~~

"Prosthetist/orthotist" means a person who practices both disciplines of prosthetics and orthotics and who represents himself or herself to the public by title or by description of services. A person who is currently licensed by the State as both a licensed prosthetist and a licensed orthotist may use the title "Licensed Prosthetist Orthotist" or "LPO".

"Resident" means a person who has completed an education program in either orthotics or prosthetics and is continuing his or her clinical education in a residency accredited by the National Commission on Orthotic and Prosthetic Education.

"Residency" means a minimum of a one-year approved supervised program to acquire practical clinical training in orthotics or prosthetics in a patient care setting.

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

"Technician" means a person who assists an orthotist, prosthetist, prosthetist/orthotist, or pedorthist with fabrication of orthoses, prostheses, or pedorthic devices but does not provide direct patient care.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/15)

(Section scheduled to be repealed on January 1, 2010)

Sec. 15. Exceptions. This Act shall not be construed to prohibit:

- (1) a physician licensed in this State from engaging in the practice for which he or she is licensed;
- (2) a person licensed in this State under any other Act from engaging in the practice for which he or she is licensed;
- (3) the practice of orthotics, prosthetics, or pedorthics by a person who is employed by the federal government or any bureau, division, or agency of the federal government while in the discharge of the employee's official duties;
- (4) the practice of orthotics, prosthetics, or pedorthics by (i) a student enrolled in a school of orthotics, prosthetics, or pedorthics, (ii) a resident continuing his or her clinical education in a residency accredited by the National Commission on Orthotic and Prosthetic Education, or (iii) a student in a qualified work experience program or internship in pedorthics;
- (5) the practice of orthotics, prosthetics, or pedorthics by one who is an orthotist, prosthetist, or pedorthist licensed under the laws of another state or territory of the United States or another country and has applied in writing to the Department, in a form and substance satisfactory to the Department, for a license as orthotist, prosthetist, or pedorthist and who is qualified to receive the license under Section 40 until (i) the expiration of 6 months after the filing of the written application, (ii) the withdrawal of the application, or (iii) the denial of the application by the Department;
- (6) a person licensed by this State as a physical therapist, ~~or~~ occupational therapist, or advanced practice nurse from engaging in his or her profession; or
- (7) a physician licensed under the Podiatric Medical Practice Act of 1997 from engaging in his or her profession.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/20)

(Section scheduled to be repealed on January 1, 2010)

Sec. 20. Powers and duties of the Department.

(a) The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois for the administration of licensure Acts and shall exercise other powers and duties necessary for effectuating the purposes of this Act.

(b) The Department shall ~~may~~ adopt rules to administer and enforce this Act including, but not limited to, fees for original licensure, and renewal and restoration of licenses and may prescribe forms to be issued to implement its rules. The Department shall exercise the powers and duties prescribed by this Act. At a minimum, the rules adopted by the Department shall include standards and criteria for licensure and for

professional conduct and discipline. The Department shall consult with the Board in adopting rules. Notice of proposed rulemaking shall be transmitted to the Board, and the Department shall review the Board's response and inform the Board of any deviations ~~any recommendations made in writing with proper explanation of deviations from the Board's recommendations and response.~~

(c) The Department at any time may seek the expert advice and knowledge of the Board on any matter relating to the enforcement of this Act.

~~(d) Department may adopt rules as necessary to establish eligibility for facility registration and standards.~~
(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/25)

(Section scheduled to be repealed on January 1, 2010)

Sec. 25. Board of Orthotics, Prosthetics, and Pedorthics.

(a) There is established a Board of Orthotics, Prosthetics, and Pedorthics, which shall consist of 6 voting members to be appointed by the Secretary Director. Three members shall be practicing licensed orthotists, licensed prosthetists, or licensed pedorthists. These members may be licensed in more than one discipline and their appointments must equally represent all 3 disciplines. One member shall be a member of the public who is a consumer of orthotic, prosthetic, or pedorthic professional services. One member shall be a public member who is not licensed under this Act or a consumer of services licensed under this Act. One member shall be a licensed physician.

(b) Each member of the Board shall serve a term of 3 years, except that of the initial appointments to the Board, 2 members shall be appointed for one year, 2 members shall be appointed for 2 years, and 2 members shall be appointed for 3 years. Each member shall hold office and execute his or her Board responsibilities until the qualification and appointment of his or her successor. No member of the Board shall serve more than 8 consecutive years or 2 full terms, whichever is greater.

(c) Members of the Board shall receive as compensation a reasonable sum as determined by the Secretary Director for each day actually engaged in the duties of the office and shall be reimbursed for reasonable expenses incurred in performing the duties of the office.

~~(d) Four members of the Board shall constitute a quorum. A quorum is required for all Board decisions. A quorum of the Board shall consist of a majority of Board members currently appointed.~~

(e) The Secretary Director may terminate the appointment of any member for cause which, in the opinion of the Secretary Director reasonably justifies termination, which may include, but is not limited to, a Board member who does not attend 2 consecutive meetings.

(f) Membership of the Board should reasonably reflect representation from the geographic areas in this State.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/40)

(Section scheduled to be repealed on January 1, 2010)

Sec. 40. Qualifications for licensure as orthotist, prosthetist, or pedorthist.

(a) To qualify for a license to practice orthotics or prosthetics, a person shall:

(1) possess a baccalaureate degree from a college or university;

(2) have completed the amount of formal training, including, but not limited to, any hours of classroom education and clinical practice established and approved by the Department;

(3) complete a clinical residency in the professional area for which a license is sought in accordance with standards, guidelines, or procedures for residencies inside or outside this State established and approved by the Department. The majority of training must be devoted to services performed under the supervision of a licensed practitioner of orthotics or prosthetics or a person certified as a Certified Orthotist (CO), Certified Prosthetist (CP), or Certified Prosthetist Orthotist (CPO) whose practice is located outside of the State ~~certification was obtained before the effective date of this Act;~~

(4) pass all written, practical, and oral examinations that are required and approved by the Department; and

(5) be qualified to practice in accordance with internationally accepted standards of orthotic and prosthetic care.

(b) To qualify for a license to practice pedorthics, a person shall:

(1) submit proof of ~~possess~~ a high school diploma or its equivalent;

(2) have completed the amount of formal training, including, but not limited to, any hours of classroom education and clinical practice established and approved by the Department;

(3) complete a qualified work experience program or internship in pedorthics that has a minimum of 1,000 hours of pedorthic patient care experience in

accordance with any standards, guidelines, or procedures established and approved by the Department. The majority of training must be devoted to services performed under the supervision of a licensed practitioner of pedorthics or a person certified as a Certified Pedorthist (C.Ped) whose practice is located outside of the State;

- (4) pass all examinations that are required and approved by the Department; and
- (5) be qualified to practice in accordance with nationally accepted standards of pedorthic care.

(c) The standards and requirements for licensure established by the Department shall be substantially equal to or in excess of standards commonly accepted in the profession of orthotics, prosthetics, or pedorthics. The Department shall adopt rules as necessary to set the standards and requirements.

(d) A person may be licensed in more than one discipline.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/55)

(Section scheduled to be repealed on January 1, 2010)

Sec. 55. License required ~~Transition period.~~

~~(a) Until January 1, 2002, a person certified as a Certified Orthotist (CO), Certified Prosthetist (CP), or Certified Prosthetist Orthotist (CPO) by the American Board for Certification in Prosthetics and Orthotics, Incorporated, or holding similar certifications from other accrediting bodies with equivalent educational requirements and examination standards may apply for and shall be granted orthotic or prosthetic licensure under this Act upon payment of the required fee. After that date, any applicant for licensure as an orthotist or a prosthetist shall meet the requirements of subsection (a) of Section 40 of this Act.~~

~~(b) Until January 1, 2002, a person certified as a Certified Pedorthist (CPed) by the Board for Certification in Pedorthics, Incorporated, or a person certified as a Certified Orthotist (CO) or Certified Prosthetist Orthotist (CPO) by the American Board for Certification in Prosthetics and Orthotics, Incorporated, or holding similar certifications from other accrediting bodies with equivalent educational requirements and examination standards may apply for and shall be granted pedorthic licensure under this Act upon payment of the required fee. After that date, any applicant for licensure as a pedorthist shall meet the requirements of subsection (b) of Section 40 of this Act.~~

~~No (c) On and after January 1, 2002, no person shall practice orthotics, prosthetics, or pedorthics in this State or hold himself or herself out as being able to practice either profession, unless he or she is licensed in accordance with Section 40 of this Act.~~

~~(d) Notwithstanding any other provision of this Section, a person who has practiced full time for the past 7 years in a prosthetic/orthotic facility as an orthotist, prosthetist, prosthetist/orthotist, assistant, or technician or in a pedorthic facility as a pedorthist or pedorthic technician on the effective date of this Act may file an application with the Board within 60 days after the enforcement of this Section begins pursuant to Section 56 of this Act in order to continue to practice orthotics, prosthetics, or pedorthics at his or her identified level of practice. The applicant shall be issued a license or certificate of registration to practice orthotics, prosthetics, or pedorthics under the provisions of this Act without examination upon receipt by the Department of payment of the licensing or registration fee required under Section 70 of this Act and after the Board has completed an investigation of the applicant's work history. The Board shall complete its investigation for the purposes of this Section within 6 months of the date of the application. The investigation may include, but is not limited to, completion by the applicant of a questionnaire regarding the applicant's work history and scope of practice.~~

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/57)

(Section scheduled to be repealed on January 1, 2010)

Sec. 57. Limitation on provision of care and services. A licensed orthotist, prosthetist, or pedorthist may provide care or services only if the care or services are provided pursuant to an order from (i) a licensed physician, (ii) ~~a~~ podiatrist, (iii) an advanced practice nurse who has a written collaborative agreement with a collaborating physician or podiatrist that specifically authorizes ordering the services of an orthotist, prosthetist or pedorthist, (iv) an advanced practice nurse who practices in a hospital or ambulatory surgical treatment center and possesses clinical privileges to order services of an orthotist, prosthetist, or pedorthist, or (v) a physician assistant who has been delegated the authority to order the services of an orthotist, prosthetist, or pedorthist by his or her supervising physician. A licensed podiatrist or advanced practice nurse collaborating with a podiatrist may only order care or services concerning the foot from a licensed prosthetist. A licensed prosthetist may provide care or services only if the care or services are provided pursuant to an order from a licensed physician.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/60)

(Section scheduled to be repealed on January 1, 2010)

Sec. 60. Renewal; restoration; military service; inactive status.

(a) The expiration date and renewal period for each license issued under this Act shall be set by rule of the Department. The Board shall establish continuing education requirements for the renewal of a license. These requirements shall be based on established standards of competence.

(b) A person who has permitted his or her license to expire or who has had his or her license on inactive status may have his or her license restored by (i) making application to the Department, (ii) filing proof acceptable to the Department of his or her fitness to have his or her license restored including, but not limited to, sworn evidence certifying to active practice in another jurisdiction satisfactory to the Department, and (iii) 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, his or her fitness to resume active status and may require the person to complete a period of evaluated clinical experience and may require successful completion of an examination.

(c) A person whose license expired while he or she was (i) in federal service on active duty within the armed forces of the United States or with the State militia called into service or training or (ii) in training or education under the supervision of the United States preliminary to induction into military service may have his or her license renewed or restored without paying a lapsed renewal fee if, within 2 years after termination from the service, training, or education except under conditions other than honorable, he or she furnished the Department with satisfactory evidence that he or she has been so engaged and that his or her service, training, or education has been terminated.

(d) A person who notifies the Department in writing on forms prescribed by the Department may elect to place his or her license on an inactive status and shall, subject to rules of the Department, be excused from payment of renewal fees until he or she notifies the Department in writing of his or her desire to resume active status.

(e) A person requesting restoration from inactive status shall be required to pay the current renewal fee and shall be required to restore his or her license as provided in Section 60 of this Act.

(f) An orthotist, prosthetist, or pedorthist whose license is on inactive status shall not practice orthotics, prosthetics, or pedorthics in this State.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/70)

(Section scheduled to be repealed on January 1, 2010)

Sec. 70. Endorsement. The Department may, at its discretion, license as either an orthotist, prosthetist, or pedorthist, without examination and on payment of the required fee, an applicant who is an orthotist, prosthetist, or pedorthist who is (i) licensed under the laws of another state, territory, or country, if the requirements for licensure in that state, territory, or country in which the applicant was licensed were, at the date of his or her licensure, substantially equal to the requirements in force in this State on that date or (ii) certified by a national certification organization with educational and testing standards as set forth by rule equal to or more stringent than the licensing requirements of this State.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/77 new)

Sec. 77. Returned checks; fines. Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a non-renewed license. The Department shall notify the person that payment of fees and fines shall be made to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or deny the application, without hearing. If, after termination or denial, the person seeks a license, he or she shall apply to the Department for restoration or issuance of the license and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license, designed to cover all expenses of processing the application. The Secretary may waive the fines due under this Section in individual cases where the Secretary finds that the fines would be unreasonable or unnecessarily burdensome.

(225 ILCS 84/80)

(Section scheduled to be repealed on January 1, 2010)

Sec. 80. Roster of licensees and registrants. The Department shall maintain a current roster of the names and addresses of all licensees, registrants, and all persons whose licenses have been suspended, ~~or revoked,~~ or otherwise disciplined within the previous year. This roster shall be available upon written request and payment of the required fee.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/85)

(Section scheduled to be repealed on January 1, 2010)

Sec. 85. Practice by corporations. Nothing in this Act shall restrict licensees from forming professional service corporations under and in accordance with the provisions of the Professional Service Corporation Act.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/90)

(Section scheduled to be repealed on January 1, 2010)

Sec. 90. Grounds for discipline.

(a) The Department may refuse to issue or renew a license, or may revoke or suspend a license, or may suspend, place on probation, ensure, or reprimand a licensee or take other disciplinary or non-disciplinary action as the Department may deem proper, including, but not limited to, the imposition of fines not to exceed \$10,000 for each violation for one or any combination of the following:

(1) Making a material misstatement in furnishing information to the Department or the Board.

(2) Violations of or negligent or intentional disregard of this Act or its rules.

(3) Conviction of, or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof or that is a misdemeanor of which an essential element is dishonesty, or any crime that is directly related to the practice of the profession ~~Conviction of any crime that under the laws of the United States or of a state or territory of the United States is a felony or a misdemeanor, an essential element of which is dishonesty, or of a crime that is directly related to the practice of the profession.~~

(4) Making a misrepresentation for the purpose of obtaining a license.

(5) A pattern of practice or other behavior that demonstrates incapacity or incompetence to practice under this Act.

(6) Gross negligence under this Act.

(7) Aiding or assisting another person in violating a provision of this Act or its rules.

(8) Failing to provide information within 60 days in response to a written request made by the Department.

(9) Engaging in dishonorable, unethical, or unprofessional conduct or conduct of a character likely to deceive, defraud, or harm the public.

(10) Inability to practice with reasonable judgment, skill, or safety as a result of habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug ~~Habitual intoxication or addiction to the use of drugs.~~

(11) Discipline by another state or territory of the United States, the federal government, or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to one set forth in this Section.

(12) Directly or indirectly giving to or receiving from a person, firm, corporation, partnership, or association a fee, commission, rebate, or other form of compensation for professional services not actually or personally rendered.

(13) A finding by the Board that the licensee or registrant, after having his or her license placed on probationary status, has violated the terms of probation.

(14) Abandonment of a patient or client.

(15) Willfully ~~Willfully~~ making or filing false records or reports in his or her practice including, but not limited to, false records filed with State agencies or departments.

(16) Willfully ~~Willfully~~ failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act.

(17) Inability to practice the profession with reasonable judgment, skill, or safety as a result of a physical illness, including, but not limited to, deterioration through the aging process or loss of motor skill, or a mental illness or disability ~~Physical illness including, but not limited to, deterioration through the aging~~

~~process or loss of motor skill that results in the inability to practice the profession with reasonable judgement, skill, or safety.~~

(18) Solicitation of professional services using false or misleading advertising.

~~(b) In enforcing this Section, the Department or Board upon a showing of a possible violation, may compel a licensee or applicant to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning the 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 examining physicians shall be specifically designated by the Board or Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. Failure of an individual to submit to a mental or physical examination, when directed, shall be grounds for the immediate suspension of his or her license until the individual submits to the examination if the Department finds that the refusal to submit to the examination was without reasonable cause as defined by rule.~~

~~In instances in which the Secretary immediately suspends a person's license for his or her failure to submit to a mental or physical examination, when directed, a hearing on that person's license must be convened by the Department within 15 days after the suspension and completed without appreciable delay.~~

~~In instances in which the Secretary otherwise suspends a person's license pursuant to the results of a compelled mental or physical examination, a hearing on that person's license must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.~~

~~An individual licensed under this Act and affected under this Section shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license. The determination by a circuit court that a licensee or registrant is subject to involuntary admission or judicial admission, as provided in the Mental Health and Developmental Disabilities Code, operates as an automatic suspension. The suspension will end only upon (i) a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and the issuance of a court order so finding and discharging the patient and (ii) the recommendation of the Board to the Director that the licensee or registrant be allowed to resume his or her practice.~~

~~(c) The Department shall deny a license or renewal authorized by this Act to a person who has defaulted on an educational loan or scholarship provided or guaranteed by the Illinois Student Assistance Commission or any governmental agency of this State in accordance with subsection (a)(5) of Section 15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105-15). In enforcing this Section, the Department or Board upon a showing of a possible violation may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning the 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 examining physicians shall be specifically designated by the Board or Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. The examination shall be performed by a physician licensed to practice medicine in all its branches. Failure of an individual to submit to a mental or physical examination, when directed, shall be grounds for suspension of his or her license until the individual 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 Department or Board finds an individual unable to practice because of the reasons set forth in this Section, the Department or Board may require that individual to submit to care, counseling, or treatment by physicians approved or designated by the Department or Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling, or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. An individual 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 individual shall have his or her license suspended immediately, pending a hearing by the Department.~~

~~In instances in which the Director immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.~~

~~An individual licensed under this Act and affected under this Section shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license.~~

(d) In cases where the Department of Healthcare and Family Services (formerly Department of Public Aid) has previously determined that a licensee or a potential licensee is more than 30 days delinquent in the payment of child support and has subsequently certified the delinquency to the Department, the Department may refuse to issue or renew or may revoke or suspend that person's license or may take other disciplinary action against that person based solely upon the certification of delinquency made by the Department of Healthcare and Family Services in accordance with subsection (a)(5) of Section 15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105-15).

(e) The Department may refuse to issue or renew a license, or may revoke or suspend a license, for failure to file a return, 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 Department of Revenue, until such time as the requirements of the tax Act are satisfied in accordance with subsection (g) of Section 15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105-15).

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/95)

(Section scheduled to be repealed on January 1, 2010)

Sec. 95. Injunction; cease and desist order.

(a) If any person, company, or corporation violates a provision of this Act, the ~~Secretary~~ Director may, in the name of the People of the State of Illinois and through the Attorney General of the State of Illinois or the States Attorney of the county in which the violation is alleged to have occurred, petition for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in court, the court may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person, company, or corporation has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) If a person practices as an orthotist, prosthetist, or pedorthist or holds himself or herself out as an orthotist, prosthetist, or pedorthist without being licensed ~~or registered~~ under the provisions of this Act, then any other licensed ~~or registered~~ orthotist, prosthetist, or pedorthist, any interested party, or any person injured by the person may, in addition to the ~~Secretary~~ Director, petition for relief as provided in subsection (a) of this Section.

(c) If a company or corporation holds itself out to provide orthotic, prosthetic, or pedorthic services without having an orthotist, prosthetist, or pedorthist licensed under the provisions of this Act on its staff to provide those services, then any other licensed orthotist, prosthetist, or pedorthist or any interested party or injured person may, in addition to the Secretary, petition for relief as provided in subsection (a) of this Section.

(d) Whenever in the opinion of the Department a person, company, or corporation violates a provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against him, or her, or it. The rule shall clearly set forth the grounds relied upon by the Department and shall provide a period of 7 days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued immediately.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/100)

(Section scheduled to be repealed on January 1, 2010)

Sec. 100. Investigations; notice and hearing.

(a) The Department may investigate the actions of an applicant or of a person or persons holding or

claiming to hold a license.

(b) The Department may also investigate the actions of a company or corporation that holds itself out to provide orthotic, prosthetic, or pedorthic services with or without having an orthotist, prosthetist, or pedorthist licensed under the provisions of this Act on its staff to provide those services.

(c) Before refusing to issue or renew a license or taking any other disciplinary action with respect to a license, the Department shall, at least 30 40 days prior to the date set for the hearing, notify in writing the applicant for or holder of a license of the nature of the charges and that a hearing will be held on the date designated. The written notice may be served by personal delivery or by certified or registered mail to the respondent at the address of record with the Department disclosed on his or her last notification to the Department. At the time and place fixed in the notice, the Board shall proceed to hear the charges. The parties or their counsel shall be afforded ample opportunity to present statements, testimony, evidence, and argument that may be pertinent to the charges or to the defense to the charges. The Board may continue the hearing from time to time.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/103 new)

Sec. 103. Subpoenas; depositions; oaths.

(a) The Department has the power to subpoena documents, books, records, or other materials and to bring before it any person and to take testimony either orally or by deposition, or any combination thereof, with the same fees and mileage and in the same manner as prescribed in civil cases in the courts of this State.

(b) The Secretary, the designated hearing officer, and every member of the Board has the power to administer oaths to witnesses at any hearing that the Department is authorized to conduct, and any other oaths authorized in any Act administered by the Department.

(225 ILCS 84/105)

(Section scheduled to be repealed on January 1, 2010)

Sec. 105. Record of proceedings ~~Transcript~~. The Department, at its own expense, shall preserve a record of all proceedings at the formal hearing of any a case involving the refusal to issue or renew a license. The notice of hearing, complaint, and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcripts ~~transcript~~ of testimony, the report of the Board, and orders of the Department shall be in the record of the proceeding.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/107 new)

Sec. 107. Unlicensed practice; civil penalty.

(a) Any person who practices, offers to practice, attempts to practice, or holds oneself out to practice orthotics, prosthetics, or pedorthics or performs the functions and duties of orthotist, prosthetist, or pedorthist 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 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.

(b) Any company or corporation that offers to practice, attempts to practice, or holds itself out to provide orthotic, prosthetic, or pedorthic services without having an orthotist, prosthetist, or pedorthist licensed under the provisions of this Act on its staff to provide those services 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 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.

(c) The Department has the authority and power to investigate any and all unlicensed activity.

(d) 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.

(225 ILCS 84/110)

(Section scheduled to be repealed on January 1, 2010)

Sec. 110. Compelling testimony. A circuit court may, upon application of the Secretary ~~Director~~ or his or her designee or the applicant or licensee against whom proceedings under Section 100 of this Act are pending, enter an order requiring the attendance of witnesses and their testimony and requiring the production of documents, papers, files, books, and records in connection with a hearing or investigation. The court may compel obedience to its order through contempt proceedings.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/115)

(Section scheduled to be repealed on January 1, 2010)

Sec. 115. Board findings and recommendations. At the conclusion of a hearing, the Board shall present to the Secretary Director a written report of its findings and recommendations. The report shall contain a finding of whether or not the accused person violated this Act or failed to comply with the conditions required in this Act. The Board shall specify the nature of the violation or failure to comply and shall make its recommendations to the Secretary Director. The report of findings and recommendations of the Board shall be the basis for the Department's order for the refusal or for the granting of a license, unless the Secretary Director determines that the Board report is contrary to the manifest weight of the evidence, in which case the Secretary Director may issue an order in contravention to the Board report. A Board finding is not admissible in evidence against the person in a criminal prosecution brought for a violation of this Act, but the hearing and finding are not a bar to a criminal prosecution brought for a violation of this Act.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/120)

(Section scheduled to be repealed on January 1, 2010)

Sec. 120. Motion for rehearing. In any case involving the refusal to issue or renew a license or the discipline of a licensee, a copy of the Board's report shall be served upon the respondent by the Department, either personally or as provided in this Act for the service of the notice of hearing. Within 20 days after service, the respondent may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for rehearing. If no motion for rehearing is filed, then upon the expiration of the time specified for filing the motion, or if a motion for rehearing is denied, upon the denial, the Secretary Director may enter an order in accordance with recommendations of the Board, except as provided in Section 115 of this Act. If the respondent orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, the 20-day period within which the motion may be filed shall commence upon the delivery of the transcript to the respondent.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/125)

(Section scheduled to be repealed on January 1, 2010)

Sec. 125. Rehearing on order of Secretary Director. Whenever the Secretary Director is not satisfied that substantial justice has been done in the revocation, suspension, or refusal to issue or renew a license the Secretary Director may order a rehearing by the same or other examiners.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/130)

(Section scheduled to be repealed on January 1, 2010)

Sec. 130. Appointment of hearing officer. The Secretary Director shall have the authority to appoint an attorney licensed to practice law in the State of Illinois to serve as a hearing officer in an action for refusal to issue or renew a license or to discipline a licensee. The hearing officer shall have full authority to conduct the hearing. The hearing officer shall report his or her findings and recommendations to the Board and the Secretary Director. The Board shall have 60 days from receipt of the report to review the report of the hearing officer and present its findings of fact, conclusions of law, and recommendations to the Secretary Director. If the Board fails to present its report within the 60-day period, the Secretary Director shall issue an order based on the report of the hearing officer. If the Secretary Director determines that the Board's report is contrary to the manifest weight of the evidence, he or she may issue an order in contravention of the Board's report. Nothing in this Section shall prohibit a Board member from attending an informal conference and such participation shall not be grounds for recusal from any other proceeding.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/135)

(Section scheduled to be repealed on January 1, 2010)

Sec. 135. Order or certified copy. An order or a certified copy of an order, over the seal of the Department and purporting to be signed by the Secretary Director, shall be prima facie proof:

- (1) that the signature is the genuine signature of the Secretary Director;
- (2) that the Secretary Director is duly appointed and qualified; and
- (3) that the Board and its members are qualified to act.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/150)

(Section scheduled to be repealed on January 1, 2010)

Sec. 150. Temporary suspension of a license. The ~~Secretary Director~~ may temporarily suspend the license of an orthotist, prosthetist, or pedorthist without a hearing simultaneously with the institution of proceedings for a hearing provided for in Section 95 of this Act if the ~~Secretary Director~~ finds that evidence in his or her possession indicates that a licensee's continuation in practice would constitute an imminent danger to the public. If the ~~Secretary Director~~ temporarily suspends a license without a hearing, a hearing by the Board must be held within 30 days after the suspension and completed without appreciable delay.

(Source: P.A. 91-590, eff. 1-1-00.)

(225 ILCS 84/160)

(Section scheduled to be repealed on January 1, 2010)

Sec. 160. Certifications of record; costs. The Department shall not be required to certify any record to the court or file any answer in court or otherwise appear in any court in a judicial review proceeding unless there is filed in the court with the complaint a receipt from the Department acknowledging payment of the costs of furnishing and certifying the record, which cost shall be determined by the Department ~~shall be computed at the rate of 20 cents per page of the record.~~ Failure on the part of a plaintiff to file a receipt in court shall be grounds for dismissal of the action.

(Source: P.A. 91-590, eff. 1-1-00.)

Section 15. The Perfusionist Practice Act is amended by changing Sections 10, 15, 25, 45, 60, 70, 90, 95, 100, 105, 115, 120, 140, 145, 150, 170, 180, 185, 200, 220, and 230 and by adding Sections 75, 93, 135, 142, 155, 212, and 227 as follows:

(225 ILCS 125/10)

(Section scheduled to be repealed on January 1, 2010)

Sec. 10. Definitions. As used in this Act:

"Address of Record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file maintained by the Department. It is the duty of the applicant or licensee to inform the Department of any change of address, and such changes must be made either through the Department's website or by directly contacting the Department.

"Board" means the Board of Licensing for Perfusionists ~~Perfusion.~~

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

~~"Director" means the Director of Professional Regulation.~~

"Extracorporeal circulation" means the diversion of a patient's blood through a heart-lung machine or a similar device that assumes the functions of the patient's heart, lungs, kidney, liver, or other organs.

"New graduate perfusionist" means a perfusionist practicing within a period of one year since the date of graduation from a Commission on Accreditation of Allied Health Education Programs accredited perfusion education program.

"Perfusion" means the functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular systems or other organs, or a combination of those functions, and to ensure the safe management of physiologic functions by monitoring and analyzing the parameters of the systems under an order and under the supervision of a physician licensed to practice medicine in all its branches.

"Perfusionist" means a person, qualified by academic and clinical education, to operate the extracorporeal circulation equipment during any medical situation where it is necessary to support or replace a person's cardiopulmonary, circulatory, or respiratory function. A perfusionist is responsible for the selection of appropriate equipment and techniques necessary for support, treatment, measurement, or supplementation of the cardiopulmonary and circulatory system of a patient, including the safe monitoring, analysis, and treatment of physiologic conditions under an order and under the supervision of a physician licensed to practice medicine in all its branches and in coordination with a registered professional nurse.

"Perfusion protocols" means perfusion related policies and protocols developed or approved by a licensed health facility or a physician through collaboration with administrators, licensed perfusionists, and other health care professionals.

"Physician" or "operating physician" means a person licensed to practice medicine in all of its branches under the Medical Practice Act of 1987.

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

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/15)

(Section scheduled to be repealed on January 1, 2010)

Sec. 15. Powers and duties of the Department. Subject to the provisions of this Act, the Department may:

(a) ~~Pass upon the qualifications of applicants for licensure by endorsement. The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois for the~~

~~administration of licensing Acts and shall exercise any other powers and duties necessary for effectuating the purposes of this Act.~~

~~(b) Conduct hearings on proceedings to refuse to issue or renew a license, or to revoke or suspend a license, or to place on probation, reprimand, or take any other disciplinary or non-disciplinary action with regard to a person licensed under this Act. The Department may adopt rules consistent with the provisions of this Act for its administration and enforcement and may prescribe forms that shall be issued in connection with this Act. The rules may include but are not limited to standards and criteria for licensure, professional conduct, and discipline.~~

~~(c) Formulate rules required for the administration of this Act.~~

~~(d) Obtain written recommendations from the Board regarding (i) curriculum content, standards of professional conduct, formal disciplinary actions, and the formulation of rules, and (ii) when petitioned by the applicant, opinions regarding the qualifications of applicants for licensing.~~

~~(e) Maintain rosters of the names and address of all licensees, and all persons whose licenses have been suspended, revoked, or denied renewal for cause or otherwise disciplined within the previous calendar year. These rosters shall be available upon written request and payment of the required fee as established by rule.~~

~~(Source: P.A. 91-580, eff. 1-1-00.)~~

~~(225 ILCS 125/25)~~

~~(Section scheduled to be repealed on January 1, 2010)~~

~~Sec. 25. Board of Licensing for Perfusionists Perfusion.~~

~~(a) The Secretary Director shall appoint a Board of Licensing for Perfusionists which Perfusion to consist of 5 persons who shall be appointed by and shall serve in an advisory capacity to the Secretary Director. The Board shall be comprised of 5 persons appointed by the Secretary, who shall give due consideration to recommendations by members of the profession of perfusion and perfusion organizations within the State.~~

~~(b) Two members must hold an active license to engage in the practice of perfusion in this State, one member must be a physician licensed under the Medical Practice Act of 1987 who is board certified in and actively engaged in the practice of cardiothoracic surgery, one member must be a licensed registered professional nurse certified by the Association of Operating Room Nurses, and one member must be a member of the public who is not licensed under this Act or a similar Act of another jurisdiction and who has no connection with the profession. The initial appointees who would otherwise be required to be licensed perfusionists shall instead be individuals who have been practicing perfusion for at least 5 years and who are eligible under this Act for licensure as perfusionists.~~

~~(c) Members shall serve 4-year terms and until their successors are appointed and qualified, except that, of the initial appointments, 2 members shall be appointed to serve for 2 years, 2 members shall be appointed to serve for 3 years, and 1 member shall be appointed to serve for 4 years, and until their successors are appointed and qualified. No member shall be reappointed to the Board for a term that would cause his or her continuous service on the Board to be longer than 8 consecutive years.~~

~~(d) 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.~~

~~(e) The Board shall annually elect a chairperson and a vice-chairperson who shall preside in the absence of the chairperson.~~

~~(f) Insofar as possible, the licensed professionals appointed to serve on the Board shall be generally representative of the occupational and geographical distribution of licensed professionals within The membership of the Board should reasonably reflect representation from the various geographic areas in this State.~~

~~(g) The Secretary Director may remove or suspend ~~terminate the appointment~~ of any member for cause at any time before the expiration of his or her term. The Secretary shall be the sole arbiter of cause.~~

~~(h) The Secretary Director may give due consideration to all recommendations of the Board.~~

~~(i) Three ~~A majority of the~~ Board members ~~currently appointed~~ shall constitute a quorum. A quorum is required for all Board decisions. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise the rights and perform all the duties of the Board.~~

~~(j) Except for willful or wanton misconduct, members ~~Members~~ of the Board shall be immune from liability ~~have no liability~~ in any action based upon any disciplinary proceeding or other activity performed in good faith as a member of the Board.~~

~~(Source: P.A. 91-580, eff. 1-1-00.)~~

~~(225 ILCS 125/45)~~

~~(Section scheduled to be repealed on January 1, 2010)~~

Sec. 45. Application of Act. This Act shall not be construed to prohibit the following:

(1) a person licensed in this State under any other Act from engaging in the practice for which he or she is licensed;

(2) a student enrolled in an accredited perfusion education program from performing perfusion services if perfusion services performed by the student:

(A) are an integral part of the student's course of study; and

(B) are performed under the direct supervision of a licensed perfusionist who is assigned to supervise the student and who is on duty and immediately available in the assigned patient care area;

(3) a new graduate from performing perfusion services for a period of 14 months after the date of his or her graduation from a perfusion education program that is accredited by the Commission on Accreditation of Allied Health Education Programs, if perfusion services performed by the new graduate perfusionist ~~are necessary to fulfill the eligibility requirements for the ABCP certification examination required under subsection (3) of Section 30; and (B) are performed under the direct supervision and responsibility of a licensed perfusionist or a physician licensed to practice medicine in all its branches who is assigned to supervise the graduate perfusionist and who is on duty and immediately available in the assigned patient care area;~~

(4) any legally qualified perfusionist employed by the United States government from engaging in the practice of perfusion while in the discharge of his or her official duties; or

(5) one or more licensed perfusionists from forming a professional service corporation in accordance with the Professional Service Corporation Act.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/60)

(Section scheduled to be repealed on January 1, 2010)

Sec. 60. Display of license; change of address. ~~(a) The Department shall issue a perfusionist license to a person meeting the application and qualification requirements of Section 30 of this Act. However, a person is eligible for one year from the effective date of this Act to make application to the Board and receives a license notwithstanding the requirements of Section 30 of this Act if the person is actively engaged in the practice of perfusion consistent with applicable law and if the person has at least 5 years experience operating cardiopulmonary bypass systems during cardiac surgical cases in a licensed health care facility as the person's primary function between January 1, 1991 and the effective date of this Act.~~

~~(b) A licensee shall maintain on file at all times during which the licensee provides services in a health care facility a true and correct copy of the license certificate in the appropriate records of the facility.~~

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/70)

(Section scheduled to be repealed on January 1, 2010)

Sec. 70. Renewal, reinstatement or restoration of license; ~~continuing education~~; military service. The expiration date and renewal period for each license issued under this Act shall be set by the Department by rule. A licensee may renew his or her license during the month preceding the expiration date of the license by paying the required fee. It is the responsibility of the licensee to notify the Department in writing of a change of address. Renewal shall be conditioned on paying the required fee and meeting other requirements as may be established by rule.

A licensee who has permitted his or her license to expire or who has had his or her license on inactive status may have the license restored by making application to the Department, by filing proof acceptable to the Department of his or her fitness to have the license restored, and by paying the required fees. Proof of fitness may include sworn evidence certifying to active lawful practice in another jurisdiction.

If the licensee has not maintained an active practice in another jurisdiction satisfactory to the Department, the Department shall determine, by an evaluation program established by rule, his or her fitness for restoration of the license and shall establish procedures and requirements for restoration. However, a licensee whose license expired while he or she 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 before induction into the military service, may have the license restored without paying any lapsed renewal fees if within 2 years after honorable termination of the service, training, or education he or she furnishes the Department with satisfactory evidence to the effect that he or she has been so engaged and that his or her service, training, or education has been so terminated.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/75 new)

Sec. 75. Continuing education. The Department may adopt rules of continuing education for licensees that require 30 hours of continuing education per 2 year license renewal cycle. The rules shall address variances in part or in whole for good cause, including without limitation temporary illness or hardship. The Department may approve continuing education programs offered, provided, and approved by the American Board of Cardiovascular Perfusion, or its successor agency. The Department may approve additional continuing education sponsors. Each licensee is responsible for maintaining records of his or her completion of the continuing education and shall be prepared to produce the records when requested by the Department.

(225 ILCS 125/90)

(Section scheduled to be repealed on January 1, 2010)

Sec. 90. Fees; deposit of fees and fines, returned checks.

(a) The Department shall set by rule fees for the administration of this Act, including, but not limited to, fees for initial and renewal licensure and restoration of a license. The fees shall be nonrefundable.

(b) All of the fees and fines collected under this Act shall be deposited into the General Professions Dedicated Fund. The monies deposited into the Fund shall be appropriated to the Department for expenses of the Department in the administration of this Act.

~~(c) A person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a nonrenewed license. The Department shall notify the person that fees and fines shall be paid to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or deny the application without a hearing. If the person seeks a license after termination or denial, he or she shall apply to the Department for restoration or issuance of the license and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license to defray the expenses of processing the application. The Director may waive the fines due under this Section in individual cases if the Director finds that the fines would be unreasonable or unnecessarily burdensome.~~

(Source: P.A. 91-580, eff. 1-1-00; 92-146, eff. 1-1-02.)

(225 ILCS 125/93 new)

Sec. 93. Returned checks; penalty for insufficient funds. Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act prohibiting unlicensed practice or practice on a nonrenewed license. The Department shall notify the person that payment of the fees and fines shall be paid to the Department by certified check or money order within 30 calendar days after notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or deny the application, without hearing. After such termination of a license or denial of an application, the same individual may only apply to the Department for restoration or issuance of a license after he or she has paid all fees and fines owed to the Department. The Department may establish a fee for the processing of an application for restoration of a license to pay all expenses of processing this application. The Secretary may waive the fines due under this Section in individual cases where the Secretary finds that the fines would be unreasonable or unnecessarily burdensome.

(225 ILCS 125/95)

(Section scheduled to be repealed on January 1, 2010)

Sec. 95. Roster. The Department shall maintain a roster of the names and addresses of all licensees and of all persons ~~that~~ whose licenses have been disciplined under this Act. This roster shall be available upon ~~written~~ request and payment of the required fee.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/100)

(Section scheduled to be repealed on January 1, 2010)

Sec. 100. Unlicensed practice; civil penalty. A person who practices, offers to practice, attempts to practice, or holds himself or herself out to practice as a licensed perfusionist 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.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/105)

(Section scheduled to be repealed on January 1, 2010)

Sec. 105. Disciplinary actions. Grounds for disciplinary action.

(a) The Department may refuse to issue, renew, or restore a license, ~~or~~ may revoke or suspend a license, or may place on probation, ~~censure~~, reprimand, or take other disciplinary ~~or non-disciplinary~~ action with regard to a person licensed under this Act, including but not limited to the imposition of fines not to exceed ~~\$10,000~~ ~~\$5,000~~ for each violation, for ~~any~~ one or ~~any~~ combination of the following causes:

(1) Making a material misstatement in furnishing information to the Department.

(2) ~~Violation~~ ~~Violating a provision~~ of this Act or ~~any rule its rules promulgated under this Act.~~

(3) Conviction ~~of, or entry of a plea of guilty or nolo contendere to, any crime that is a felony~~ under the laws of ~~the~~ a United States or any state or territory thereof, ~~or any crime jurisdiction of a crime that is a felony or a misdemeanor of which~~ ; an

essential element ~~of which~~ is dishonesty, or ~~any~~ ~~of a~~ crime that is directly related to the practice as a perfusionist.

(4) Making a misrepresentation for the purpose of obtaining, renewing, or restoring a license.

(5) ~~Aiding~~ ~~Wilfully aiding~~ or assisting another person in violating a provision of this Act or its rules.

(6) Failing to provide information within 60 days in response to a written request made by the Department.

(7) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public, as defined by rule of the Department.

(8) Discipline by another ~~state, the District of Columbia, or territory, United States jurisdiction or a~~ foreign nation, if at least one of the grounds for discipline is the same or substantially equivalent to those set forth in this Section.

(9) Directly or indirectly giving to or receiving from a person, firm, corporation, partnership, or association a fee, commission, rebate, or other form of compensation for professional services not actually or personally rendered.

(10) A finding by the Board that the licensee, after having his or her license placed on probationary status, has violated the terms of probation.

(11) Wilfully making or filing false records or reports in his or her practice, including but not limited to false records or reports filed with State agencies ~~or departments.~~

(12) Wilfully making or signing a false statement, certificate, or affidavit to induce payment.

(13) Wilfully failing to report an instance of suspected child abuse or neglect as required under the Abused and Neglected Child Reporting Act.

(14) Being named as a perpetrator in an indicated report by the Department of Children and Family Services under the Abused and Neglected Child Reporting Act 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.

(15) Employment of fraud, deception, or any unlawful means in applying for or securing a license as a perfusionist.

(16) Allowing another person to use his or her license to practice.

(17) Failure to report to the Department (A) any adverse final action taken against the licensee by another licensing jurisdiction, government agency, law enforcement agency, or any court or (B) liability for conduct that would constitute grounds for action as set forth in this Section.

(18) ~~Inability to practice the profession with reasonable judgment, skill or safety as a result of a physical illness, including but not limited to deterioration through the aging process or loss of motor skill, or a mental illness or disability. Habitual intoxication or addiction to the use of drugs.~~

(19) ~~Inability~~ ~~Physical illness, including but not limited to deterioration through the aging process or loss of motor skills, which results in the inability~~ to practice the profession for which he or she is licensed with reasonable

judgment, skill, or safety as a result of habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug.

- (20) ~~Gross malpractice resulting in permanent injury or death of a patient.~~
- (21) Immoral conduct in the commission of an act related to the licensee's practice, including but not limited to sexual abuse, sexual misconduct, or sexual exploitation.
- (22) Violation of the Health Care Worker Self-Referral Act.
- (23) Solicitation of business or professional services, other than permitted advertising.
- (24) Conviction of or cash compromise of a charge or violation of the Illinois Controlled Substances Act.
- (25) Gross, willful, or continued overcharging for professional services, including filing false statements for collection of fees for which services are not rendered.
- (26) Practicing under a false name or, except as allowed by law, an assumed name.
- (27) Violating any provision of this Act or the rules promulgated under this Act, including, but not limited to, advertising.

(b) A licensee or applicant who, because of a physical or mental illness or disability, including, but not limited to, deterioration through the aging process or loss of motor skill, is unable to practice the profession with reasonable judgment, skill, or safety, may be required by the Department 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. Submission to care, counseling or treatment as required by the Department shall not be considered discipline of the licensee. If the licensee refuses to enter into a care, counseling or treatment agreement or fails to abide by the terms of the agreement the Department may file a complaint to suspend or revoke the license or otherwise discipline the licensee. The Secretary may order the license suspended immediately, pending a hearing by the Department. Fines shall not be assessed in the disciplinary actions involving physical or mental illness or impairment. The Department may refuse to issue or may suspend the license of a person who fails to file a return, to pay the tax, penalty, or interest shown in a filed return, or to pay a final assessment of the tax, penalty, or interest as required by a tax Act administered by the Department of Revenue, until the requirements of the tax Act are satisfied.

(b-5) The Department may refuse to issue or may suspend, without a hearing as provided for in the Civil Administrative Code of Illinois, the license of a person who fails to file a return, 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 Department of Revenue, until such time as the requirements of the tax Act are satisfied in accordance with subsection (g) of Section 15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105-15).

(c) 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, as amended, operates as an automatic suspension. The suspension will end only upon a finding by a court that the licensee is no longer subject to the involuntary admission or judicial admission and issues an order so finding and discharging the licensee; and upon the recommendation of the Board to the Secretary that the licensee be allowed to resume his or her practice. 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. The suspension will end only upon (1) a finding by a court that the patient is no longer subject to involuntary admission or judicial admission, (2) issuance of an order so finding and discharging the patient, and (3) the recommendation of the Disciplinary Board to the Director that the licensee be allowed to resume his or her practice.

(d) In enforcing this Section, the Department or Board, upon a showing of a possible violation, may order a licensee or applicant to submit to a mental or physical examination, or both, at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning his or her 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 examining physicians shall be specifically designated by the Board or Department. The licensee or applicant may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of a licensee or applicant to submit to any such examination when directed, without reasonable cause as defined by rule, shall be grounds for either the immediate suspension of his or her license or immediate denial of his or her application.

If the Secretary immediately suspends the license of a licensee for his or her failure to submit to a mental or physical examination when directed, a hearing must be convened by the Department within 15 days after the suspension and completed without appreciable delay.

If the Secretary otherwise suspends a license pursuant to the results of the licensee's mental or physical

examination, a hearing must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the licensee's record of treatment and counseling regarding the relevant impairment or impairments to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

Any licensee suspended or otherwise affected under this subsection (d) shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with the acceptable and prevailing standards under the provisions of his or her license.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/115)

(Section scheduled to be repealed on January 1, 2010)

Sec. 115. ~~Injunctive action; cease and desist order.~~

(a) If any person violates the provisions of this Act, the Secretary, in the name of the People of the State of Illinois, through the Attorney General or the State's Attorney of the county in which the violation is alleged to have occurred, may petition for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition, the court with appropriate jurisdiction may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section are in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) Whenever, in the opinion of the Department, a person violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against that person. The rule shall clearly set forth the grounds relied upon the Department and shall allow at least 7 days from the date of the rule to file an answer satisfactory to the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued.

(c) If a person practices as a perfusionist or holds himself or herself out as a perfusionist without being licensed under this Act, then any licensee under this Act, interested party, or person injured thereby, in addition to the Secretary or State's Attorney, may petition for relief as provided in subsection (a) of this Section.

~~(a) If a person violates a provision of this Act, the Director, in the name of the People of the State of Illinois through the Attorney General of the State of Illinois, or the State's Attorney of a county in which the violation occurs, may petition for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in court, the court may issue a temporary restraining order without notice or bond and may preliminarily and permanently enjoin the violation. If it is established that the licensee has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Act.~~

~~(b) If a person practices as a perfusionist or holds himself or herself out as a perfusionist without being licensed under this Act, then any licensee under this Act, interested party, or person injured thereby, in addition to the Director or State's Attorney, may petition for relief as provided in subsection (a) of this Section.~~

~~(c) If the Department determines that a person violated a provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against him or her. The rule shall clearly set forth the grounds relied upon by the Department and shall provide a period of 7 days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued immediately.~~

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/120)

(Section scheduled to be repealed on January 1, 2010)

Sec. 120. Investigation; notice; hearing. The Department may ~~Licenses may be refused, revoked, suspended, or otherwise disciplined in the manner provided by this Act and not otherwise. The Department may upon its own motion and shall upon the verified complaint in writing of any person setting forth facts that if proven would constitute grounds for refusal to issue or for suspension or revocation under this Act,~~ investigate the actions of any applicant or any a person applying for, holding, or claiming to hold a perfusionist license. The Department shall, before refusing to issue or renew, suspending, or revoking a license or taking other discipline pursuant to Section 105 of this Act, and at least 30 days prior to the date set for the hearing, (i) notify in writing the applicant or licensee of any charges made and the time and the

place for the hearing on the charges, (ii) direct him or her to file a written answer to the charges with the Board under oath within 20 days after the service on him or her of the notice, and ; shall direct afford the applicant or licensee an opportunity to be heard in person or by counsel in reference to the charges, and direct the applicant or licensee to file a written answer to the Department under oath within 20 days after the service on him or her of the notice and (iii) inform the accused applicant or licensee that , if he or she fails to failure to file an answer , will result in default will be being taken against him or her or the applicant or licensee and that his or her the license may be suspended, revoked, or placed on probationary status, or other disciplinary action may be taken with regard to the licensee, including limiting the scope, nature, or extent of practice, as the Department Director may consider deem proper. 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 any pertinent statements, testimony, evidence, and arguments. The Board may continue the hearing from time to time. In case Written notice may be served by personal delivery to the applicant or licensee or by mailing the notice by certified mail to his or her last known place of residence or to the place of business last specified by the applicant or licensee in his or her last notification to the Department. If the person , after receiving the notice, fails to file an answer after receiving notice, his or her license may, in the discretion of the Department, be suspended, revoked, or placed on probationary status or the Department may take whatever disciplinary action it considers 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. The written notice may be served by personal delivery or by certified mail to the address of record or the address specified by the accused in his or her last communication with the Department. At the time and place fixed in the notice, the Department shall proceed to a hearing of the charges and both the applicant or licensee and the complainant shall be afforded ample opportunity to present, in person or by counsel, any statements, testimony, evidence, and arguments that may be pertinent to the charges or to their defense. The Department may continue a hearing from time to time. If the Board is not sitting at the time and place fixed in the notice or at the time and place to which the hearing shall have been continued, the Department may continue the hearing for a period not to exceed 30 days.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/135 new)

Sec. 135. Certification of record; costs. The Department shall not be required to certify any record to the court, to file an answer in court, or to otherwise appear in any court in a judicial review proceeding unless there is filed in the court, with the complaint, a receipt from the Department acknowledging payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department. The court may dismiss the action if the plaintiff fails to file such receipt.

(225 ILCS 125/140)

(Section scheduled to be repealed on January 1, 2010)

Sec. 140. Subpoena; oaths. The Department has the power to subpoena documents, books, records or other materials and to bring before it any person in this State and to take testimony either orally or by deposition, with the same fees and mileage and in the same manner as is prescribed by law in judicial proceedings in civil cases in circuit courts of this State. The Secretary, the designated hearing officer, and any Board member has the power to administer oaths to witnesses at any hearing that the Department is authorized to conduct, and any other oaths authorized in any Act administered by the Department. The Director and any Disciplinary Board member designated by the Director shall each have the authority to administer, at any hearing that the Department is authorized to conduct under this Act, oaths to witnesses and any other oaths authorized to be administered by the Department under this Act.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/142 new)

Sec. 142. Compelling testimony. Any circuit court, upon application of the Department or designated hearing officer may enter an order requiring the attendance of witnesses and their testimony, and the production of documents, papers, files, books, and records in connection with any hearing or investigation. The court may compel obedience to its order by proceedings for contempt.

(225 ILCS 125/145)

(Section scheduled to be repealed on January 1, 2010)

Sec. 145. Findings of fact and recommendations. At the conclusion of the hearing, the Board shall present to the Secretary Director a written report of its findings of fact, conclusions of law, and recommendations. The In the report, the Board shall contain make a finding of whether or not the accused person charged licensee or applicant violated a provision of this Act or its rules . The Board and shall

specify ~~the~~ ~~the~~ nature of any violations ~~the violation~~ or failure to comply and shall make its recommendations to the Secretary. In making its recommendations for disciplinary action ~~discipline~~, the Board may take into consideration all facts and circumstances bearing upon the reasonableness of the conduct of the accused respondent and the potential for future harm to the public, including but not limited to previous discipline of that respondent by the Department, intent, degree of harm to the public and likelihood of harm in the future, any restitution made, and whether the incident or incidents complained of appear to be isolated or a pattern of conduct. In making its recommendations for discipline, the Board shall seek to ensure that the severity of the discipline recommended bears some reasonable relationship to the severity of the violation.

The report of findings of fact, conclusions of law, and recommendation of the Board shall be the basis for the Department's order refusing to issue, restore, or renew a license, or otherwise disciplining a licensee. If the Secretary disagrees with the recommendations of the Board, the Secretary may issue an order in contravention of the Board recommendations. The finding is not admissible in evidence against the person in a criminal prosecution brought for a violation of this Act, but the hearing and finding are not a bar to a criminal prosecution brought for a violation of this Act.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/150)

(Section scheduled to be repealed on January 1, 2010)

Sec. 150. Board Service of report; rehearing. ~~At the conclusion of the hearing, a copy of the Board's report shall be served upon the applicant or licensee by the Department, either personally or as provided in this act for the service of a notice of hearing. In a case involving the refusal to issue or renew a license or the discipline of a licensee, a copy of the Board's report shall be served upon the respondent by the Department, either personally or as provided under Section 120 of this Act for the service of the notice of hearing.~~ Within 20 days after the service, the applicant or licensee respondent may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for a rehearing. The Department may respond to the motion for rehearing within 20 days after its service on the Department. If no motion for rehearing is filed, then upon the expiration of the specified time ~~time specified~~ for filing such a ~~the~~ motion, or if a motion for rehearing is denied, then upon the denial the Secretary Director may enter an order in accordance with recommendations of the Board, except as provided in Section 160 ~~or 165~~ of this Act. If the applicant or licensee respondent orders a transcript of the record from the reporting service and pays for the transcript of the record within the time for filing a motion for rehearing, the 20-day period within which such a motion may be filed shall commence upon the delivery of the transcript to the applicant or licensee respondent.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/155 new)

Sec. 155. Secretary; rehearing. Whenever the Secretary believes that substantial justice has not been done in the revocation or suspension of a license, or refusal to issue, restore, or renew a license, or other discipline of an applicant or licensee, the Secretary may order a rehearing by the same or another examiner.

(225 ILCS 125/170)

(Section scheduled to be repealed on January 1, 2010)

Sec. 170. Hearing officer. ~~The Secretary~~ Notwithstanding the provisions of Section 120 of this Act, the Director shall have the authority to appoint an attorney licensed to practice law in this State to serve as the hearing officer in any action for refusal to issue, restore, or renew a license or to discipline a licensee a hearing authorized under Section 120 of this Act. ~~The Director shall notify the Board of an appointment.~~ The hearing officer shall have full authority to conduct the hearing. A Board member or members may attend the hearing ~~The Board has the right to have at least one member present at a hearing conducted by a hearing officer appointed under this Section.~~ The hearing officer shall report his or her findings of fact, conclusions of law, and recommendations to the Board ~~and the Director~~. The Board shall have 60 days from receipt of the report to review the report of the hearing officer and to present its findings of fact, conclusions of law, and recommendations to the Secretary and to all parties to the proceeding ~~Director~~. If the Board fails to present its report within the 60-day period, the respondent may request in writing a direct appeal to the Secretary, in which case the Secretary shall, within 7 calendar days after such request, issue an order directing the Board to issue its findings of fact, conclusions of law, and recommendations to the Secretary within 30 calendar days of such order. If the Board fails to issue its findings of fact, conclusions of law, and recommendations within that time frame to the Secretary after the entry of such order, the Secretary shall, within 30 calendar days thereafter, issue an order based upon the report of the hearing officer and the record of the proceedings in accordance with such order. If (i) a direct appeal is requested,

(ii) the Board fails to issue its findings of fact, conclusions of law, and recommendations within its 30-day mandate from the Secretary or the Secretary fails to order the Board to do so, and (iii) the Secretary fails to issue an order within 30 calendar days thereafter, then the hearing officer's report is deemed accepted and a final decision of the Secretary. Notwithstanding the foregoing, should the Secretary, upon review, determine that substantial justice has not been done in the revocation, suspension, or refusal to issue or renew a license, or other disciplinary action taken per the result of the entry of such hearing officer's report, the Secretary may order a rehearing by the same or another examiner. ~~the Director shall issue an order based on the report of the hearing officer.~~ If the ~~Secretary~~ Director disagrees in any regard with the ~~recommendation report~~ of the Board or hearing officer, he or she may issue an order in contravention of the ~~recommendation report~~. ~~The Director shall provide a written explanation to the Board on a deviation from the Board's report and shall specify with particularity the reasons for his or her deviation in the final order.~~

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/180)

(Section scheduled to be repealed on January 1, 2010)

Sec. 180. Order or certified copy; prima facie proof. An order or a certified copy of an order, over the seal of the Department and purporting to be signed by the ~~Secretary~~ Director, shall be prima facie proof that:

- (1) the signature is the genuine signature of the ~~Secretary~~ Director;
- (2) the ~~Secretary~~ Director is duly appointed and qualified; and
- (3) the Board and its members are qualified to act.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/185)

(Section scheduled to be repealed on January 1, 2010)

Sec. 185. Restoration of a suspended or revoked license. At any time after the successful completion of a term of suspension or revocation of a license, the Department may restore it to the licensee upon written recommendation of the Board unless, after an investigation and a hearing, the ~~Board~~ Department determines that restoration is not in the public interest. Where circumstances of suspension or revocation so indicate, or on the recommendation of the Board, the Department may require an examination of the licensee before restoring his or her license.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/200)

(Section scheduled to be repealed on January 1, 2010)

Sec. 200. Summary Temporary suspension of a license. The ~~Secretary~~ Director may summarily temporarily suspend the license of a perfusionist without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 120 of this Act, if the ~~Secretary~~ Director finds that evidence in the Secretary's his or her possession indicates that continuation in practice would constitute an imminent danger to the public. In the event If the Secretary Director temporarily suspends a license of a licensed perfusionist without a hearing, a hearing must be commenced by the Department shall be held within 30 days after the suspension has occurred and shall be concluded as expeditiously as may be practical without appreciable delay.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/212 new)

Sec. 212. Violations. Any person who violates any provision of this Act shall be guilty of a Class A misdemeanor for a first offense and a Class 4 felony for each subsequent offense.

(225 ILCS 125/220)

(Section scheduled to be repealed on January 1, 2010)

Sec. 220. Unlicensed practice; civil penalties.

(a) No person shall practice, offer to practice, attempt to practice, or hold himself or herself out to practice as a perfusionist without a license issued by the Department to that person under this Act.

(b) In addition to any other penalty provided by law, a person who violates subsection (a) of this Section shall pay a civil penalty to the Department in an amount not to exceed ~~\$5,000~~ \$10,000 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 of set forth in this Act regarding a hearing for the discipline of a licensee.

(c) The Department has the authority and power to investigate any and all unlicensed activity.

(d) The civil penalty assessed under this Act 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 on the judgment in the same manner as a judgment from a court of record.

(e) All moneys collected under this Section shall be deposited into the General Professions Dedicated Fund.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 125/227 new)

Sec. 227. Consent Order. At any point in the proceedings as provided in Sections 85 through 130 and Section 150, both parties may agree to a negotiated consent order. The consent order shall be final upon signature of the Secretary.

(225 ILCS 125/230)

(Section scheduled to be repealed on January 1, 2010)

Sec. 230. Home rule powers. The regulation and licensing of perfusionists are exclusive powers and functions of the State. A home rule unit shall not regulate or license perfusionists. This Section is a denial and limitation under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(Source: P.A. 91-580, eff. 1-1-00.)

(225 ILCS 84/56 rep.) (225 ILCS 84/65 rep.)

Section 20. The Orthotics, Prosthetics, and Pedorthics Practice Act is amended by repealing Sections 56 and 65.

(225 ILCS 125/20 rep.) (225 ILCS 125/42 rep.) (225 ILCS 125/110 rep.) (225 ILCS 125/130 rep.) (225 ILCS 125/160 rep.) (225 ILCS 125/175 rep.) (225 ILCS 125/205 rep.)

Section 25. The Perfusionist Practice Act is amended by repealing Sections 20, 42, 110, 130, 160, 175, and 205.

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

The foregoing message from the Senate reporting Senate Amendment No. 2 to HOUSE BILL 2440 was placed on the Calendar on the order of Concurrence.

A message from the Senate by

Ms. Rock, Secretary:

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

HOUSE BILL 2527

A bill for AN ACT concerning utilities.

Together with the attached amendment thereto (which amendment has been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 2527

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 2527 by replacing everything after the enacting clause with the following:

"Section 5. The Public Utilities Act is amended by changing Section 13-1200 as follows:

(220 ILCS 5/13-1200)

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

Sec. 13-1200. Repealer. This Article is repealed July 1, 2010 ~~2009~~.

(Source: P.A. 94-76, eff. 6-24-05; 95-9, eff. 6-30-07.)

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

The foregoing message from the Senate reporting Senate Amendment No. 1 to HOUSE BILL 2527 was placed on the Calendar on the order of Concurrence.

A message from the Senate by

Ms. Rock, Secretary:

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

HOUSE BILL 2542

A bill for AN ACT concerning criminal law.

Together with the attached amendment thereto (which amendment has been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 2 to HOUSE BILL NO. 2542

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 2. Amend House Bill 2542 by replacing everything after the enacting clause with the following:

"Section 5. The Criminal Code of 1961 is amended by changing Sections 12-7.3, 12-7.4, and 12-7.5 as follows:

(720 ILCS 5/12-7.3) (from Ch. 38, par. 12-7.3)

Sec. 12-7.3. Stalking.

(a) A person commits stalking when he or she, knowingly engages in a course of conduct directed at a specific person, and he or she knows or should know that this course of conduct would cause a reasonable person to:

(1) fear for his or her safety or the safety of a third person; or

(2) suffer other emotional distress.

(a-3) A person commits stalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions follows another person

or places the person under surveillance or any combination thereof 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 in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint; or

(3) places that person in reasonable apprehension that a family member will receive immediate or future bodily harm, sexual assault, confinement, or restraint.

(a-5) A person commits stalking when he or she has previously been convicted of stalking another person and knowingly and without lawful justification on one occasion:

(1) follows that same person or places that same person under surveillance; and

(2) transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint; and

(3) the threat is directed towards that person or a family member of that person.

(b) Sentence. Stalking is a Class 4 felony. A second or subsequent conviction for stalking is a Class 3 felony.

(c) Definitions. For purposes of this Section:

(1) "Course of conduct" means 2 or more acts, including but not limited to acts in which a defendant directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, engages in other non-consensual contact, or interferes with or damages a person's property or pet. A course of conduct may include contact via electronic communications.

(2) "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, electromagnetic, photoelectric, or photo-optical system. "Electronic communication" includes transmissions by a computer through the Internet to another computer.

(3) "Emotional distress" means significant mental suffering, anxiety or alarm.

(4) "Family member" means a parent, grandparent, brother, sister, or child, whether by whole blood, half-blood, or adoption and includes a step-grandparent, step-parent, step-brother, step-sister or step-child. "Family member" also means any other person who regularly resides in the household, or who, within the prior 6 months, regularly resided in the household.

(5) "Follows another person" means (i) to move in relative proximity to a person as that person moves from place to place or (ii) to remain in relative proximity to a person who is stationary or whose

movements are confined to a small area. "Follows another person" does not include a following within the residence of the defendant.

(6) "Non-consensual contact" means any contact with the victim that is initiated or continued without the victim's consent, including but not limited to being in the physical presence of the victim; appearing within the sight of the victim; approaching or confronting the victim in a public place or on private property; appearing at the workplace or residence of the victim; entering onto or remaining on property owned, leased, or occupied by the victim; or placing an object on, or delivering an object to, property owned, leased, or occupied by the victim.

(7) "Places a person under surveillance" means: (1) remaining present outside the person's school, place of employment, vehicle, other place occupied by the person, or residence other than the residence of the defendant; or (2) placing an electronic tracking device on the person or the person's property.

(8) "Reasonable person" means a person in the victim's situation.

(9) "Transmits a threat" means a verbal or written threat or a threat implied by a pattern of conduct or a combination of verbal or written statements or conduct.

(d) Exemptions.

(1) This Section does not apply to any individual or organization (i) monitoring or attentive to compliance with public or worker safety laws, wage and hour requirements, or other statutory requirements, or (ii) picketing occurring at the workplace that is otherwise lawful and arises out of a bona fide labor dispute, including any controversy concerning wages, salaries, hours, working conditions or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the making or maintaining of collective bargaining agreements, and the terms to be included in those agreements.

(2) This Section does not apply to an exercise of the right to free speech or assembly that is otherwise lawful.

(3) 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.

(b-5) The incarceration of a person in a penal institution who commits the course of conduct or transmits a threat is not a bar to prosecution under this Section.

(c) Exemption. This Section does not apply to picketing occurring at the workplace that is otherwise lawful and arises out of a bona fide labor dispute, or any exercise of the right of free speech or assembly that is otherwise lawful.

(d) For the purpose of this Section, a defendant "places a person under surveillance" by: (1) remaining present outside the person's school, place of employment, vehicle, other place occupied by the person, or residence other than the residence of the defendant; or (2) placing an electronic tracking device on the person or the person's property.

(e) For the purpose of this Section, "follows another person" means (i) to move in relative proximity to a person as that person moves from place to place or (ii) to remain in relative proximity to a person who is stationary or whose movements are confined to a small area. "Follows another person" does not include a following within the residence of the defendant.

(f) For the purposes of this Section and Section 12-7.4, "bona fide labor dispute" means any controversy concerning wages, salaries, hours, working conditions, or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the making or maintaining of collective bargaining agreements, and the terms to be included in those agreements.

(g) For the purposes of this Section, "transmits a threat" means a verbal or written threat or a threat implied by a pattern of conduct or a combination of verbal or written statements or conduct.

(h) For the purposes of this Section, "family member" means a parent, grandparent, brother, sister, or child, whether by whole blood, half blood, or adoption and includes a step grandparent, step parent, step brother, step sister or step child. "Family member" also means any other person who regularly resides in the household, or who, within the prior 6 months, regularly resided in the household.

(Source: P.A. 95-33, eff. 1-1-08.)

(720 ILCS 5/12-7.4) (from Ch. 38, par. 12-7.4)

Sec. 12-7.4. Aggravated stalking.

(a) A person commits aggravated stalking when he or she, in conjunction with committing the offense of

stalking, also does any of the following:

- (1) causes bodily harm to the victim;
- (2) confines or restrains the victim; or

(3) violates a temporary restraining order, an order of protection, a stalking no contact order, a civil no contact order, or an injunction

prohibiting the behavior described in subsection (b)(1) of Section 214 of the Illinois Domestic Violence Act of 1986.

(b) Sentence. Aggravated stalking is a Class 3 felony. A second or subsequent conviction for aggravated stalking is a Class 2 felony.

(c) ~~Exemptions~~ Exemption.

(1) This Section does not apply to any individual or organization (i) monitoring or attentive to compliance with public or worker safety laws, wage and hour requirements, or other statutory requirements, or (ii) picketing occurring at the workplace that is otherwise

lawful and arises out of a bona fide labor dispute including any controversy concerning wages, salaries, hours, working conditions or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the managing or maintenance of collective bargaining agreements, and the terms to be included in those agreements, -or any

(2) This Section does not apply to an exercise of the right of free speech or assembly that is otherwise lawful.

(3) 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.

~~(d) For purposes of this Section, "bona fide labor dispute" has the meaning ascribed to it in Section 12-7.3.~~

(Source: P.A. 88-402; 88-677, eff. 12-15-94; 89-377, eff. 8-18-95.)

(720 ILCS 5/12-7.5)

Sec. 12-7.5. Cyberstalking.

(a) A person commits cyberstalking when he or she engages in a course of conduct using electronic communication directed at a specific person, and he or she knows or should know that would cause a reasonable person to:

(1) fear for his or her safety or the safety of a third person; or

(2) suffer other emotional distress.

(a-3) 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, electromagnetic, photoelectric, or photo optical system. "Electronic communication" includes transmissions by a computer through the Internet to another computer.~~

~~(b) (e) Sentence. Cyberstalking is a Class 4 felony. A second or subsequent conviction for cyberstalking is a Class 3 felony.~~

~~(c) For purposes of this Section:~~

~~(1) "Course of conduct" means 2 or more acts, including but not limited to acts in which a defendant directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, engages in other non-consensual contact, or interferes with or damages a person's property or pet. The incarceration in a penal institution of a person who commits the course of conduct is not a bar to prosecution under this Section.~~

~~(2) "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, electromagnetic, photoelectric, or photo-optical system. "Electronic communication" includes transmissions by a computer through the Internet to another computer.~~

~~(3) "Emotional distress" means significant mental suffering, anxiety or alarm.~~

~~(4) "Harass" means to engage in a knowing and willful course of conduct directed at a specific person that alarms, torments, or terrorizes that person.~~

~~(5) "Non-consensual contact" means any contact with the victim that is initiated or continued without the victim's consent, including but not limited to being in the physical presence of the victim; appearing within the sight of the victim; approaching or confronting the victim in a public place or on private property; appearing at the workplace or residence of the victim; entering onto or remaining on property owned, leased, or occupied by the victim; or placing an object on, or delivering an object to, property owned, leased, or occupied by the victim.~~

~~(6) "Reasonable person" means a person in the victim's circumstances, with the victim's knowledge of the defendant and the defendant's prior acts.~~

~~(7) "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.~~

(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. 95-849, eff. 1-1-09; revised 9-10-08.)

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

The foregoing message from the Senate reporting Senate Amendment No. 2 to HOUSE BILL 2542 was placed on the Calendar on the order of Concurrence.

A message from the Senate by

Ms. Rock, Secretary:

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

HOUSE BILL 2625

A bill for AN ACT concerning transportation.

Together with the attached amendments thereto (which amendments have been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 2625

Senate Amendment No. 2 to HOUSE BILL NO. 2625

Passed the Senate, as amended, May 21, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 2625 by replacing everything after the enacting clause with the following:

"Section 5. The State Finance Act is amended by adding Section 5.719 as follows:

(30 ILCS 105/5.719 new)

Sec. 5.719. The International Brotherhood of Teamsters Fund.

Section 10. The Illinois Vehicle Code is amended by adding Section 3-684 as follows:

(625 ILCS 5/3-684 new)

Sec. 3-684. International Brotherhood of Teamsters license plate.

(a) The Secretary, upon receipt of all applicable fees and applications made in the form prescribed by the Secretary, may issue special registration plates designated as International Brotherhood of Teamsters license plates. The special plates issued under this Section shall be affixed only to passenger vehicles of the first division, motor vehicles of the second division weighing not more than 8,000 pounds and recreational vehicles as defined by Section 1-169 of this Code. Plates issued under this Section shall expire according to the multi-year procedure established by Section 3-414.1 of this Code.

(b) The design and color of the plates is wholly within the discretion of the Secretary of State. Appropriate documentation, as determined by the Secretary, shall accompany the application. The Secretary, in his or her discretion, may allow the plates to be issued as vanity or personalized plates under Section 3-405.1 of this Code. The Secretary shall prescribe stickers or decals as provided under Section 3-412 of this Code.

(c) An applicant for the special plate shall be charged a \$40 fee for original issuance in addition to the appropriate registration fee. Of this fee, \$25 shall be deposited into the International Brotherhood of Teamsters Fund and \$15 shall be deposited into the Secretary of State Special License Plate Fund, to be used by the Secretary to help defray the administrative processing costs.

For each registration renewal period, a \$27 fee, in addition to the appropriate registration fee, shall be charged. Of this fee, \$25 shall be deposited into the International Brotherhood of Teamsters Fund and \$2 shall be deposited into the Secretary of State Special License Plate Fund.

(d) The International Brotherhood of Teamsters Fund is created as a special fund in the State treasury. All money in the International Brotherhood of Teamsters Fund shall be paid, subject to appropriation by the General Assembly and approval by the Secretary of State, as grants to the Teamsters Joint Council 25 Charitable Trust, an independent organization established and registered as a tax exempt entity under Section 501(c)(3) of the Internal Revenue Code, for religious, charitable, scientific, literary, and educational purposes."

AMENDMENT NO. 2. Amend House Bill 2625, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1 on page 1, by replacing line 5 with "Sections 5.719 and 5.720 as follows:"; and

on page 1, by inserting below line 8 the following:

"(30 ILCS 105/5.720 new)

Sec. 5.720. The United Auto Workers' Fund."; and

on page 1, by replacing line 10 with "Sections 3-684 and 3-685 as follows:"; and

on page 3, line 13, by replacing "purposes." with the following:

"purposes.

(625 ILCS 5/3-685 new)

Sec. 3-685. United Auto Workers license plates.

(a) The Secretary, upon receipt of all applicable fees and applications made in the form prescribed by the Secretary, may issue special registration plates designated as United Auto Workers license plates. The special plates issued under this Section shall be affixed only to passenger vehicles of the first division or motor vehicles of the second division weighing not more than 8,000 pounds. Plates issued under this Section shall expire according to the multi-year procedure established by Section 3-414.1 of this Code.

(b) The design and color of the special plates shall be wholly within the discretion of the Secretary. Appropriate documentation, as determined by the Secretary, shall accompany each application. The Secretary may allow the plates to be issued as vanity plates or personalized plates under Section 3-405.1 of this Code. The Secretary shall prescribe stickers or decals as provided under Section 3-412 of this Code.

(c) An applicant for the special plate shall be charged a \$25 fee for original issuance in addition to the appropriate registration fee. Of this fee, \$10 shall be deposited into the United Auto Workers' Fund and \$15 shall be deposited into the Secretary of State Special License Plate Fund, to be used by the Secretary to help defray the administrative processing costs.

For each registration renewal period, a \$25 fee, in addition to the appropriate registration fee, shall be charged. Of this fee, \$23 shall be deposited into the United Auto Workers' Fund and \$2 shall be deposited into the Secretary of State Special License Plate Fund.

(d) The United Auto Workers' Fund is created as a special fund in the State treasury. All moneys in the United Auto Workers' Fund shall be paid, subject to appropriation by the General Assembly and approval by the Secretary, as grants for charitable purposes sponsored by Illinois local unions affiliated with the United Auto Workers."

The foregoing message from the Senate reporting Senate Amendments numbered 1 and 2 to HOUSE BILL 2625 was placed on the Calendar on the order of Concurrence.

A message from the Senate by
Ms. Rock, Secretary:

Mr. Speaker -- I am directed to inform the House of Representatives that the Senate has concurred with the House in the passage of bills of the following titles to-wit:

HOUSE BILL NO. 1033

A bill for AN ACT concerning public aid.

HOUSE BILL NO. 2445

A bill for AN ACT concerning government.

Passed by the Senate, May 21, 2009.

Jillayne Rock, Secretary of the Senate

CHANGE OF SPONSORSHIP

With the consent of the affected members, Representative Madigan was removed as principal sponsor, and Representative Lang became the new principal sponsor of HOUSE BILL 312.

With the consent of the affected members, Representative Nekritz was removed as principal sponsor, and Representative Madigan became the new principal sponsor of HOUSE BILL 255.

With the consent of the affected members, Representative Madigan was removed as principal sponsor, and Representative Lang became the new principal sponsor of HOUSE BILL 255.

With the consent of the affected members, Representative Rose was removed as principal sponsor, and Representative Watson became the new principal sponsor of SENATE BILL 1647.

With the consent of the affected members, Representative Beiser was removed as principal sponsor, and Representative Zalewski became the new principal sponsor of SENATE BILL 337.

HOUSE RESOLUTIONS

The following resolutions were offered and placed in the Committee on Rules.

HOUSE RESOLUTION 437

Offered by Representative Brauer:

WHEREAS, Linda Meyer has been the director of the Chatham Area Public Library District for 21 years; and

WHEREAS, The Chatham Area Public Library District has experienced tremendous growth in the past 21 years; and

WHEREAS, During her tenure, Linda Meyer has successfully steered the Chatham Area Public Library District through referendums, subsequent moves, and expansions to the library; and

WHEREAS, The Chatham Area Public Library is an integral and vital part of the greater Chatham community due to Linda Meyer's vision and leadership; and

WHEREAS, Residents of the Chatham Area Public Library District benefit from Linda Meyer's vision and leadership through the promotion of reading, literacy, community programs, and leisure activities; and

WHEREAS, Opportunities and partnerships to support the library community have been fostered by Linda Meyer, in conjunction with the Rolling Prairie Library District and area libraries; and

WHEREAS, Linda Meyer is the beloved leader of the library and is supported by a competent and professional staff; and

WHEREAS, The members of this body recognize Linda Meyer's abilities, capacities, and indefatigable service to the Chatham Area Public Library District; therefore, be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we designate the date of June 27, 2009 as Linda Meyer Day in the State of Illinois; and be it further

RESOLVED, That a suitable copy of this resolution be presented to Linda Meyer as a symbol of our esteem and respect.

HOUSE JOINT RESOLUTION 59

Offered by Representative Eddy:

WHEREAS, Governor Quinn has proposed a drastic change in the benefits that are offered to public employees who are members of State-funded pension systems; and

WHEREAS, These changes have not been systematically analyzed for their potential impact on how the State of Illinois will be able to attract and retain high quality personnel; and

WHEREAS, The public policy implications of having older individuals performing jobs in the public safety arena have not been thoroughly studied; and

WHEREAS, Pension benefits directly impact the ability of school districts to attract college graduates to the teaching profession, especially in the critical areas of math and science; and

WHEREAS, Seventy-eight percent of all public employees in Illinois do not receive Social Security; and

WHEREAS, The retirement benefits provided by the Teachers' Retirement System of the State of Illinois, the State Universities Retirement System, and the State Employees' Retirement System of Illinois are the primary source of retirement security for public employees; and

WHEREAS, The cost for the current benefits being earned today is lower than what is paid by a typical employer in the private sector; and

WHEREAS, The State of Illinois has not fulfilled its obligation to properly fund these systems since their inception over 70 years ago; therefore, be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that there is created the Pension System Modernization Task Force; and be it further

RESOLVED, That the Task Force shall be charged with the following tasks:

- (1) analyze the public policy implications of changing pension benefits on the State of Illinois' ability to attract and retain public employees, teachers, and University professionals; and
- (2) analyze the level of the current pension benefit structure in Illinois as it compares to other states in the geographical region and to other states that have systems that are not coordinated with Social Security; and
- (3) analyze which pension benefits in Illinois should be modernized in order to put Illinois in line with other states; and be it further

RESOLVED, That the Task Force shall be composed of the following:

- (1) two legislative members appointed by the Speaker of the House;
- (2) two legislative members appointed by the President of the Senate;

- (3) two legislative members appointed by the House Minority Leader;
- (4) two legislative members appointed by the Senate Minority Leader;
- (5) two members who are statewide education labor union representatives;
- (6) two members who are statewide labor union representatives that do not represent an education labor union;

(7) four members who represent the business community, including, but not limited to, the Illinois Chamber of Commerce, the Illinois Manufacturers' Association, the Illinois Retail Merchants Association, and the National Federation of Independent Business;

(8) one member appointed by the Governor who shall act as chair; and be it further

RESOLVED, That the staff of the Commission on Government Forecasting and Accountability shall be responsible for staffing the Task Force in conjunction with the Illinois pension systems actuaries and staff; and be it further

RESOLVED, That the Task Force shall hold hearings on pension modernization, no less than one per month, between June of 2009 and October of 2009; and be it further

RESOLVED, That the Task Force shall recommend pension benefit changes to modernize these systems; and be it further

RESOLVED, That the Task Force shall report its findings to the General Assembly and the Governor on or before November 1, 2009.

AGREED RESOLUTIONS

The following resolutions were offered and placed on the Calendar on the order of Agreed Resolutions.

HOUSE RESOLUTION 432

Offered by Representative Berrios:

Congratulates Dr. Sandra Fontanez-Phelan on the occasion of her retirement as principal of Kelvyn Park High School.

HOUSE RESOLUTION 433

Offered by Representative Rose:

Congratulates Renny Garshelis, former State wrestling official from Charleston, on being selected to the Illinois Chapter of the National Wrestling Hall of Fame.

HOUSE RESOLUTION 434

Offered by Representative Rose:

Honors Charleston Police Chief Mark Jenkins on his retirement.

HOUSE RESOLUTION 435

Offered by Representative Turner:

Congratulates the congregation of the Progressive Life-Giving Word Cathedral (PLGWC) on the occasion of the dedication of the James Benjamin Alford Bible Institute.

HOUSE RESOLUTION 436

Offered by Representative Berrios:

Congratulates Graciela Shelley on the occasion of her retirement as principal of Darwin Elementary School in Chicago.

HOUSE RESOLUTION 438

Offered by Representative Ryg:

Congratulates the pediatricians, family physicians, nurse practitioners, staff, volunteers, and supporters of the Enhancing Developmentally Oriented Primary Care (EDOPC) project on the occasion of being the recipients of the 2008 Summit Award from the American Society of Association Executives (ASAE) and the Associations Advance America (AAA) Committee of the Center for Association Leadership.

HOUSE RESOLUTION 439

Offered by Representative Bill Mitchell:

Honors former Decatur City Council members Mayor Michael Carrigan, Councilman Shad Edwards, Councilwoman Betsy Stockard, and Councilman Dan Caulkins for their service to the people of Decatur.

HOUSE RESOLUTION 440

Offered by Representative Bill Mitchell:

Congratulates the congregation of the East Park Baptist Church in Decatur on the occasion of the church's 100th anniversary.

HOUSE RESOLUTION 441

Offered by Representative Bill Mitchell:

Congratulates the members of the Macon Meridian Hawks boys basketball team on the occasion of winning the IHSA Class 1A boys basketball State championship.

SENATE BILLS ON SECOND READING

SENATE BILL 268. Having been reproduced, was taken up and read by title a second time.

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

AMENDMENT NO. 1. Amend Senate Bill 268 by replacing everything after the enacting clause with the following:

"Section 5. The Residential Real Property Disclosure Act is amended by changing Section 70 as follows:

(765 ILCS 77/70)

Sec. 70. Predatory lending database program.

(a) As used in this Article:

"Adjustable rate mortgage" or "ARM" means a closed-end mortgage transaction that allows adjustments of the loan interest rate during the first 3 years of the loan term.

"Borrower" means a person seeking a mortgage loan.

"Broker" means a "broker" or "loan broker", as defined in subsection (p) of Section 1-4 of the Residential Mortgage License Act of 1987.

"Closing agent" means an individual assigned by a title insurance company or a broker or originator to ensure that the execution of documents related to the closing of a real estate sale or the refinancing of a real estate loan and the disbursement of closing funds are in conformity with the instructions of the entity financing the transaction.

"Counseling" means in-person counseling provided by a counselor employed by a HUD-certified counseling agency to all borrowers, or documented telephone counseling where a hardship would be imposed on one or more borrowers. A hardship shall exist in instances in which the borrower is confined to his or her home due to medical conditions, as verified in writing by a physician, or the borrower resides 50

miles or more from the nearest participating HUD-certified housing counseling agency. In instances of telephone counseling, the borrower must supply all necessary documents to the counselor at least 72 hours prior to the scheduled telephone counseling session.

"Counselor" means a counselor employed by a HUD-certified housing counseling agency.

"Credit score" means a credit risk score as defined by the Fair Isaac Corporation, or its successor, and reported under such names as "BEACON", "EMPIRICA", and "FAIR ISAAC RISK SCORE" by one or more of the following credit reporting agencies or their successors: Equifax, Inc., Experian Information Solutions, Inc., and TransUnion LLC. If the borrower's credit report contains credit scores from 2 reporting agencies, then the broker or loan originator shall report the lower score. If the borrower's credit report contains credit scores from 3 reporting agencies, then the broker or loan originator shall report the middle score.

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

"Exempt person" means that term as it is defined in subsections (d)(1) and (d)(1.5) of Section 1-4 of the Residential Mortgage License Act of 1987.

"First-time homebuyer" means a borrower who has not held an ownership interest in residential property.

"HUD-certified counseling" or "counseling" means counseling given to a borrower by a counselor employed by a HUD-certified housing counseling agency.

"Interest only" means a closed-end loan that permits one or more payments of interest without any reduction of the principal balance of the loan, other than the first payment on the loan.

"Lender" means that term as it is defined in subsection (g) of Section 1-4 of the Residential Mortgage License Act of 1987.

"Licensee" means that term as it is defined in subsection (e) of Section 1-4 of the Residential Mortgage License Act of 1987.

"Mortgage loan" means that term as it is defined in subsection (f) of Section 1-4 of the Residential Mortgage License Act of 1987.

"Negative amortization" means an amortization method under which the outstanding balance may increase at any time over the course of the loan because the regular periodic payment does not cover the full amount of interest due.

"Originator" means a "loan originator" as defined in subsection (hh) of Section 1-4 of the Residential Mortgage License Act of 1987, except an exempt person.

"Points and fees" has the meaning ascribed to that term in Section 10 of the High Risk Home Loan Act.

"Prepayment penalty" means a charge imposed by a lender under a mortgage note or rider when the loan is paid before the expiration of the term of the loan.

"Refinancing" means a loan secured by the borrower's or borrowers' primary residence where the proceeds are not used as purchase money for the residence.

"Title insurance company" means any domestic company organized under the laws of this State for the purpose of conducting the business of guaranteeing or insuring titles to real estate and any title insurance company organized under the laws of another State, the District of Columbia, or a foreign government and authorized to transact the business of guaranteeing or insuring titles to real estate in this State.

(a-5) A predatory lending database program shall be established within Cook County. The program shall be administered in accordance with this Article. The inception date of the program shall be July 1, 2008. A predatory lending database program shall be expanded to include Kane, Peoria, and Will counties. The inception date of the expansion of the program as it applies to Kane, Peoria, and Will counties shall be January 1, 2010. Until the inception date, none of the duties, obligations, contingencies, or consequences of or from the program shall be imposed. The program shall apply to all mortgage applications that are governed by this Article and that are made or taken on or after the inception of the program.

(b) The database created under this program shall be maintained and administered by the Department. The database shall be designed to allow brokers, originators, counselors, title insurance companies, and closing agents to submit information to the database online. The database shall not be designed to allow those entities to retrieve information from the database, except as otherwise provided in this Article. Information submitted by the broker or originator to the Department may be used to populate the online form submitted by a counselor, title insurance company, or closing agent.

(c) Within 10 days after taking a mortgage application, the broker or originator for any mortgage on residential property within the program area must submit to the predatory lending database all of the information required under Section 72 and any other information required by the Department by rule. Within 7 days after receipt of the information, the Department shall compare that information to the housing counseling standards in Section 73 and issue to the borrower and the broker or originator a

determination of whether counseling is recommended for the borrower. The borrower may not waive counseling. If at any time after submitting the information required under Section 72 the broker or originator (i) changes the terms of the loan or (ii) issues a new commitment to the borrower, then, within 5 days thereafter, the broker or originator shall re-submit all of the information required under Section 72 and, within 4 days after receipt of the information re-submitted by the broker or originator, the Department shall compare that information to the housing counseling standards in Section 73 and shall issue to the borrower and the broker or originator a new determination of whether re-counseling is recommended for the borrower based on the information re-submitted by the broker or originator. The Department shall require re-counseling if the loan terms have been modified to meet another counseling standard in Section 73, or if the broker has increased the interest rate by more than 200 basis points.

(d) If the Department recommends counseling for the borrower under subsection (c), then the Department shall notify the borrower of all participating HUD-certified counseling agencies located within the State and direct the borrower to interview with a counselor associated with one of those agencies. Within 10 days after receipt of the notice of HUD-certified counseling agencies, the borrower shall select one of those agencies and shall engage in an interview with a counselor associated with that agency. Within 7 days after interviewing the borrower, the counselor must submit to the predatory lending database all of the information required under Section 74 and any other information required by the Department by rule. Reasonable and customary costs not to exceed \$300 associated with counseling provided under the program shall be paid by the broker or originator. The Department shall annually calculate to the nearest dollar an adjusted rate for inflation. A counselor shall not recommend or suggest that a borrower contact any specific mortgage origination company, financial institution, or entity that deals in mortgage finance to obtain a loan, another quote, or for any other reason related to the specific mortgage transaction; however, a counselor may suggest that the borrower seek an opinion or a quote from another mortgage origination company, financial institution, or entity that deals in mortgage finance. A counselor or housing counseling agency that in good faith provides counseling shall not be liable to a broker or originator or borrower for civil damages, except for willful or wanton misconduct on the part of the counselor in providing the counseling.

(e) The broker or originator and the borrower may not take any legally binding action concerning the loan transaction until the later of the following:

(1) the Department issues a determination not to recommend HUD-certified counseling for the borrower in accordance with subsection (c); or

(2) the Department issues a determination that HUD-certified counseling is recommended for the borrower and the counselor submits all required information to the database in accordance with subsection (d).

(f) Within 10 days after closing, the title insurance company or closing agent must submit to the predatory lending database all of the information required under Section 76 and any other information required by the Department by rule.

(g) The title insurance company or closing agent shall attach to the mortgage a certificate of compliance with the requirements of this Article, as generated by the database. If the title insurance company or closing agent fails to attach the certificate of compliance, then the mortgage is not recordable. In addition, if any lis pendens for a residential mortgage foreclosure is recorded on the property within the program area, a certificate of service must be simultaneously recorded that affirms that a copy of the lis pendens was filed with the Department. If the certificate of service is not recorded, then the lis pendens pertaining to the residential mortgage foreclosure in question is not recordable and is of no force and effect.

(h) All information provided to the predatory lending database under the program is confidential and is not subject to disclosure under the Freedom of Information Act, except as otherwise provided in this Article. Information or documents obtained by employees of the Department in the course of maintaining and administering the predatory lending database are deemed confidential. Employees are prohibited from making disclosure of such confidential information or documents. Any request for production of information from the predatory lending database, whether by subpoena, notice, or any other source, shall be referred to the Department of Financial and Professional Regulation. Any borrower may authorize in writing the release of database information. The Department may use the information in the database without the consent of the borrower: (i) for the purposes of administering and enforcing the program; (ii) to provide relevant information to a counselor providing counseling to a borrower under the program; or (iii) to the appropriate law enforcement agency or the applicable administrative agency if the database information demonstrates criminal, fraudulent, or otherwise illegal activity.

(i) Nothing in this Article is intended to prevent a borrower from making his or her own decision as to

whether to proceed with a transaction.

(j) Any person who violates any provision of this Article commits an unlawful practice within the meaning of the Consumer Fraud and Deceptive Business Practices Act.

(k) During the existence of the program, the Department shall submit semi-annual reports to the Governor and to the General Assembly by May 1 and November 1 of each year detailing its findings regarding the program. The report shall include, by county, at least the following information for each reporting period:

- (1) the number of loans registered with the program;
- (2) the number of borrowers receiving counseling;
- (3) the number of loans closed;
- (4) the number of loans requiring counseling for each of the standards set forth in Section 73;
- (5) the number of loans requiring counseling where the mortgage originator changed the loan terms subsequent to counseling; -
- (6) the number of licensed mortgage brokers and loan originators entering information into the database;
- (7) the number of investigations based on information obtained from the database, including the number of licensees fined, the number of licenses suspended, and the number of licenses revoked;
- (8) a summary of the types of non-traditional mortgage products being offered; and
- (9) a summary of how the Department is actively utilizing the program to combat mortgage fraud.

(Source: P.A. 94-280, eff. 1-1-06; 94-1029, eff. 7-14-06; 95-691, eff. 6-1-08; revised 11-6-08.)
Section 99. Effective date. This Act takes effect upon becoming law."

There being no further amendment(s), the bill, as amended, was held on the order of Second Reading.

SENATE BILL 189. Having been reproduced, was taken up and read by title a second time.
The following amendment was offered in the Committee on Executive, adopted and reproduced:

AMENDMENT NO. 1. Amend Senate Bill 189 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Governmental Ethics Act is amended by changing Section 1-105 as follows:
(5 ILCS 420/1-105) (from Ch. 127, par. 601-105)

Sec. 1-105. "Economic opportunity" means any purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services wherein a legislator may gain an economic benefit. The ~~The~~ term shall not include gifts.
(Source: Laws 1967, p. 3401.)"

There being no further amendment(s), the bill, as amended, was held on the order of Second Reading.

SENATE BILL 235. Having been reproduced, was taken up and read by title a second time.
The following amendment was offered in the Committee on Executive, adopted and reproduced:

AMENDMENT NO. 1. Amend Senate Bill 235 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Section 34A-604 as follows:
(105 ILCS 5/34A-604) (from Ch. 122, par. 34A-604)

Sec. 34A-604. Abolition of Authority. The Authority shall be abolished one year after all its Obligations have been fully paid and discharged or otherwise provided for. Upon the abolition of the Authority, all of its rights and property shall pass to and be vested in the Board State.
(Source: P.A. 81-1221.)"

There being no further amendment(s), the bill, as amended, was held on the order of Second Reading.

RECALL

At the request of the principal sponsor, Representative Madigan, SENATE BILL 51 was recalled from the order of Third Reading to the order of Second Reading.

SENATE BILL ON SECOND READING

SENATE BILL 51. Having been recalled on May 21, 2009, the same was again taken up. Representative Madigan offered the following amendments and moved their adoption.

AMENDMENT NO. 1. Amend Senate Bill 51 by replacing everything after the enacting clause with the following:

"ARTICLE 1

Section 1-1. Short title. This Article may be cited as the Local Government Electronic Reverse Auction Act.

Section 1-5. Unit of local government defined. As used in this Article, "unit" and "unit of local government" mean a unit of local government as defined in Section 1 of Article VII of the Illinois Constitution.

Section 1-10. Reverse auction. Notwithstanding any other provision of law and in accordance with rules adopted by the unit, a unit of local government, whether or not it is a home rule unit as defined in Section 6 of Article VII of the Illinois Constitution, may procure supplies or services through a competitive electronic auction bidding process after the unit's purchasing officer explains in writing to the unit's governing body his or her determination that the use of such a process will be in the best interest of the unit.

The purchasing officer shall publish that determination in the same manner required by law for the unit's invitations for bids.

An invitation for bids shall be issued and shall include (i) a procurement description, (ii) all contractual terms, whenever practical, and (iii) conditions applicable to the procurement, including a notice that bids will be received in an electronic auction manner.

Public notice of the invitation for bids shall be given in the same manner as required by law for the unit's other invitations for bids.

Bids shall be accepted electronically at the time and in the manner designated in the invitation for bids. During the auction, a bidder's price shall be disclosed to other bidders. Bidders shall have the opportunity to reduce their bid prices during the auction. At the conclusion of the auction, the record of the bid prices received and the name of each bidder shall be open to public inspection.

After the auction period has terminated, withdrawal of bids shall be permitted as otherwise provided by law.

The contract shall be awarded within 60 days after the auction by written notice to the lowest responsible bidder, or all bids shall be rejected except as otherwise provided by law.

Extensions of the date for the award may be made by mutual written consent of the purchasing officer and the lowest responsible bidder.

Section 1-15. Application. This Act does not apply to (i) procurements of professional and artistic services, (ii) telecommunications services, communication services, and information services, and (iii) contracts for construction projects.

ARTICLE 95

Section 95-10. The Deposit of State Moneys Act is amended by changing Section 22.5 as follows:
(15 ILCS 520/22.5) (from Ch. 130, par. 41a)

(For force and effect of certain provisions, see Section 90 of P.A. 94-79)

Sec. 22.5. Permitted investments. The State Treasurer may, with the approval of the Governor, invest and reinvest any State money in the treasury which is not needed for current expenditures due or about to become due, in obligations of the United States government or its agencies or of National Mortgage Associations established by or under the National Housing Act, 1201 U.S.C. 1701 et seq., or in mortgage participation certificates representing undivided interests in specified, first-lien conventional residential Illinois mortgages that are underwritten, insured, guaranteed, or purchased by the Federal Home Loan Mortgage Corporation or in Affordable Housing Program Trust Fund Bonds or Notes as defined in and issued pursuant to the Illinois Housing Development Act. All such obligations shall be considered as cash and may be delivered over as cash by a State Treasurer to his successor.

The State Treasurer may, with the approval of the Governor, purchase any state bonds with any money in the State Treasury that has been set aside and held for the payment of the principal of and interest on the bonds. The bonds shall be considered as cash and may be delivered over as cash by the State Treasurer to his successor.

The State Treasurer may, with the approval of the Governor, invest or reinvest any State money in the treasury that is not needed for current expenditure due or about to become due, or any money in the State Treasury that has been set aside and held for the payment of the principal of and the interest on any State bonds, in shares, withdrawable accounts, and investment certificates of savings and building and loan associations, incorporated under the laws of this State or any other state or under the laws of the United States; provided, however, that investments may be made only in those savings and loan or building and loan associations the shares and withdrawable accounts or other forms of investment securities of which are insured by the Federal Deposit Insurance Corporation.

The State Treasurer may not invest State money in any savings and loan or building and loan association unless a commitment by the savings and loan (or building and loan) association, executed by the president or chief executive officer of that association, is submitted in the following form:

The Savings and Loan (or Building and Loan) Association pledges not to reject arbitrarily mortgage loans for residential properties within any specific part of the community served by the savings and loan (or building and loan) association because of the location of the property.

The savings and loan (or building and loan) association also pledges to make loans available on low and moderate income residential property throughout the community within the limits of its legal restrictions and prudent financial practices.

The State Treasurer may, with the approval of the Governor, invest or reinvest, at a price not to exceed par, any State money in the treasury that is not needed for current expenditures due or about to become due, or any money in the State Treasury that has been set aside and held for the payment of the principal of and interest on any State bonds, in bonds issued by counties or municipal corporations of the State of Illinois.

The State Treasurer may, with the approval of the Governor, invest or reinvest any State money in the Treasury which is not needed for current expenditure, due or about to become due, or any money in the State Treasury which has been set aside and held for the payment of the principal of and the interest on any State bonds, in participations in loans, the principal of which participation is fully guaranteed by an agency or instrumentality of the United States government; provided, however, that such loan participations are represented by certificates issued only by banks which are incorporated under the laws of this State or any other state or under the laws of the United States, and such banks, but not the loan participation certificates, are insured by the Federal Deposit Insurance Corporation.

The State Treasurer may, with the approval of the Governor, invest or reinvest any State money in the Treasury that is not needed for current expenditure, due or about to become due, or any money in the State Treasury that has been set aside and held for the payment of the principal of and the interest on any State bonds, in any of the following:

(1) Bonds, notes, certificates of indebtedness, Treasury bills, or other securities now or hereafter issued that are guaranteed by the full faith and credit of the United States of America as to principal and interest.

(2) Bonds, notes, debentures, or other similar obligations of the United States of America, its agencies, and instrumentalities.

(2.5) Bonds, notes, debentures, or other similar obligations of a foreign government, other than the Republic of the Sudan, that are guaranteed by the full faith and credit of that government as to principal and interest, but only if the foreign government has not defaulted and has met its payment obligations in a timely manner on all similar obligations for a period of at least 25 years immediately before the time of acquiring those obligations.

(3) Interest-bearing savings accounts, interest-bearing certificates of deposit, interest-bearing time deposits, or any other investments constituting direct obligations of any bank as defined by the Illinois Banking Act.

(4) Interest-bearing accounts, certificates of deposit, or any other investments constituting direct obligations of any savings and loan associations incorporated under the laws of this State or any other state or under the laws of the United States.

(5) Dividend-bearing share accounts, share certificate accounts, or class of share accounts of a credit union chartered under the laws of this State or the laws of the United States; provided, however, the principal office of the credit union must be located within the State of Illinois.

(6) Bankers' acceptances of banks whose senior obligations are rated in the top 2

rating categories by 2 national rating agencies and maintain that rating during the term of the investment.

(7) Short-term obligations of corporations organized in the United States with assets exceeding \$500,000,000 if (i) the obligations are rated at the time of purchase at one of the 3 highest classifications established by at least 2 standard rating services and mature not later than 180 days from the date of purchase, (ii) the purchases do not exceed 10% of the corporation's outstanding obligations, (iii) no more than one-third of the public agency's funds are invested in short-term obligations of corporations, and (iv) the corporation has not been identified as a forbidden entity, as that term is defined in Section 1-110.6 of the Illinois Pension Code, by an independent researching firm that specializes in global security risk that has been engaged by the State Treasurer.

(8) Money market mutual funds registered under the Investment Company Act of 1940, provided that the portfolio of the money market mutual fund is limited to obligations described in this Section and to agreements to repurchase such obligations.

(9) The Public Treasurers' Investment Pool created under Section 17 of the State Treasurer Act or in a fund managed, operated, and administered by a bank.

(10) Repurchase agreements of government securities having the meaning set out in the Government Securities Act of 1986, as now or hereafter amended or succeeded, subject to the provisions of that Act and the regulations issued thereunder.

(11) Investments made in accordance with the Technology Development Act.

For purposes of this Section, "agencies" of the United States Government includes:

(i) the federal land banks, federal intermediate credit banks, banks for cooperatives, federal farm credit banks, or any other entity authorized to issue debt obligations under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and Acts amendatory thereto;

(ii) the federal home loan banks and the federal home loan mortgage corporation;

(iii) the Commodity Credit Corporation; and

(iv) any other agency created by Act of Congress.

The Treasurer may, with the approval of the Governor, lend any securities acquired under this Act. However, securities may be lent under this Section only in accordance with Federal Financial Institution Examination Council guidelines and only if the securities are collateralized at a level sufficient to assure the safety of the securities, taking into account market value fluctuation. The securities may be collateralized by cash or collateral acceptable under Sections 11 and 11.1.

(Source: P.A. 94-79, eff. 1-27-06; for force and effect of certain provisions, see Section 90 of P.A. 94-79; 95-521, eff. 8-28-07.)

Section 95-15. The Department of Transportation Law of the Civil Administrative Code of Illinois is amended by adding Sections 2705-590, 2705-595, and 2705-600 as follows:

(20 ILCS 2705/2705-590 new)

Sec. 2705-590. Office of Business and Workforce Diversity.

(a) The Office of Business and Workforce Diversity is established within the Department.

(b) The Office shall administer and be responsible for the Department's efforts to achieve greater diversity in its construction projects and in promoting equal opportunities within the Department. The responsibilities of the Office shall be administered between 2 distinct bureaus, designed to establish policy, procedures, and monitoring efforts pursuant to the governing regulations supporting minorities and those supporting women in contracting and workforce activities.

(c) Applicant firms must be found eligible to be certified as a Disadvantaged Business Enterprise (DBE) program under the federal regulations contained in 49 CFR part 26 and part 23. Only those businesses that are involved in highway construction-related services (non-vertical), consultant, and supplier/equipment rental/trucking services may be considered for participation in the Department's DBE program. Once certified, the firm's name shall be listed in the Illinois Unified Certification Program's (IL UCP) DBE Directory (Directory). The IL UCP's 5 participating agencies shall maintain the Directory to provide a reference source to assist bidders and proposers in meeting DBE contract goals. The Directory shall list the firms in alphabetical order and provides the industry categories/list and the districts in which the firms have indicated they are available.

(20 ILCS 2705/2705-595 new)

Sec. 2705-595. Prequalification of minority-owned and women-owned contractors. The Department shall, within 30 days after the effective date of this amendatory Act of the 96th General Assembly, establish a committee to review the rules for prequalification of contractors adopted by the Department at 44 Illinois Administrative Code 650. The purpose of the review is to determine whether the rules for prequalification operate as a barrier to minority-owned and women-owned contractors becoming prequalified to bid on or

make proposals for Department contracts. The committee shall, in addition to Department staff, be constituted with membership representing the construction industry and minority-owned and women-owned contractors. The committee shall complete its work and make recommendations for any changes to the rules for prequalification to the Secretary of Transportation within 180 days after the effective date of this amendatory Act of the 96th General Assembly.

(20 ILCS 2705/2705-600 new)

Sec. 2705-600. Target market program. In order to achieve all diversity goals, the Department's chief procurement officer shall develop and coordinate a target market program including the following elements:

(1) In January of each year, the chief procurement officer shall estimate the dollar value of all contracts to be awarded by the Department during that year and shall multiply that total by the minority-owned business target market percentage and the women-owned business target market percentage for that year. Contracts with an estimated dollar value equal to those products shall be set aside (prior to advertisement in the case of contracts to be awarded by bid) to be let only to qualified minority-owned businesses and qualified women-owned businesses, respectively.

(2) The chief procurement officer shall work with the officers and divisions of the Department to determine the appropriate designation of contracts as target market contracts. To the extent practical, the chief procurement officer shall divide the procurements so designated into contract award units of economically feasible production runs in order to facilitate offers or bids from minority-owned businesses and women-owned businesses. In making the annual designation of target market contracts, the chief procurement officer shall attempt to vary the included procurements so that a variety of goods and services produced by different minority-owned businesses and women-owned businesses shall be set aside each year. Minority-owned businesses and women-owned businesses shall remain eligible to seek the procurement award of contracts that have not been designated as target market contracts.

(3) The Department shall develop a list of minority-owned businesses and women-owned businesses that are interested in participating in the target market program, including the type of contract in which each minority-owned business and women-owned business is interested in participating. The Department may make participation in the target market program dependent upon submission to stricter compliance audits than are generally applicable. No contract shall be eligible for inclusion in the target market program unless the list developed by the Department indicates that there are at least 3 qualified minority-owned businesses or women-owned businesses interested in participating in that type of contract. The Department may develop guidelines to regulate the level of participation of individual minority-owned businesses and women-owned businesses in the target market program in order to prevent the domination of the target market program by a small number of those entities. If necessary or useful, the Department may require minority-owned businesses and women-owned businesses to participate in training programs offered by the Department or other State agencies as a condition to participation in the target market program.

(4) Participation in the target market program shall be limited to minority-owned businesses and women-owned businesses and joint ventures consisting exclusively of minority-owned businesses, women-owned businesses, or both. The prime contractor on a target market contract may subcontract up to 50% of the dollar value of the target market contract to subcontractors who are not minority-owned businesses or women-owned businesses.

(5) The Department may include in the target market program contracts that are funded by the federal government and may vary the standards of eligibility of the target market program (for example, by allowing the participation of businesses owned by a person with a disability) to the extent necessary to comply with the federal funding requirements.

(6) If no satisfactory bid or response is received with respect to a contract that has been designated as part of the target market program, the Department may delete that contract from the target market program. In addition, the chief procurement officer shall thereupon designate and set aside for the target market program additional contracts corresponding in approximate value to the contract that was deleted from the target market program, to the extent feasible.

(7) In order to facilitate the performance of target market contracts by minority-owned businesses and women-owned businesses, the chief procurement officer may expedite payments under target market contracts, may reduce retainages under target market contracts when appropriate, and may pay the contractor a portion of the value of a target market contract at the time of award as an advance to cover start-up and mobilization costs.

Section 95-20. The Illinois Finance Authority Act is amended by changing Section 801-40 as follows:

(20 ILCS 3501/801-40)

Sec. 801-40. In addition to the powers otherwise authorized by law and in addition to the foregoing general corporate powers, the Authority shall also have the following additional specific powers to be exercised in furtherance of the purposes of this Act.

(a) The Authority shall have power (i) to accept grants, loans or appropriations from the federal government or the State, or any agency or instrumentality thereof, to be used for the operating expenses of the Authority, or for any purposes of the Authority, including the making of direct loans of such funds with respect to projects, and (ii) to enter into any agreement with the federal government or the State, or any agency or instrumentality thereof, in relationship to such grants, loans or appropriations.

(b) The Authority shall have power to procure and enter into contracts for any type of insurance and indemnity agreements covering loss or damage to property from any cause, including loss of use and occupancy, or covering any other insurable risk.

(c) The Authority shall have the continuing power to issue bonds for its corporate purposes. Bonds may be issued by the Authority in one or more series and may provide for the payment of any interest deemed necessary on such bonds, of the costs of issuance of such bonds, of any premium on any insurance, or of the cost of any guarantees, letters of credit or other similar documents, may provide for the funding of the reserves deemed necessary in connection with such bonds, and may provide for the refunding or advance refunding of any bonds or for accounts deemed necessary in connection with any purpose of the Authority. The bonds may bear interest payable at any time or times and at any rate or rates, notwithstanding any other provision of law to the contrary, and such rate or rates may be established by an index or formula which may be implemented or established by persons appointed or retained therefor by the Authority, or may bear no interest or may bear interest payable at maturity or upon redemption prior to maturity, may bear such date or dates, may be payable at such time or times and at such place or places, may mature at any time or times not later than 40 years from the date of issuance, may be sold at public or private sale at such time or times and at such price or prices, may be secured by such pledges, reserves, guarantees, letters of credit, insurance contracts or other similar credit support or liquidity instruments, may be executed in such manner, may be subject to redemption prior to maturity, may provide for the registration of the bonds, and may be subject to such other terms and conditions all as may be provided by the resolution or indenture authorizing the issuance of such bonds. The holder or holders of any bonds issued by the Authority may bring suits at law or proceedings in equity to compel the performance and observance by any person or by the Authority or any of its agents or employees of any contract or covenant made with the holders of such bonds and to compel such person or the Authority and any of its agents or employees to perform any duties required to be performed for the benefit of the holders of any such bonds by the provision of the resolution authorizing their issuance, and to enjoin such person or the Authority and any of its agents or employees from taking any action in conflict with any such contract or covenant. Notwithstanding the form and tenor of any such bonds and in the absence of any express recital on the face thereof that it is non-negotiable, all such bonds shall be negotiable instruments. Pending the preparation and execution of any such bonds, temporary bonds may be issued as provided by the resolution. The bonds shall be sold by the Authority in such manner as it shall determine. The bonds may be secured as provided in the authorizing resolution by the receipts, revenues, income and other available funds of the Authority and by any amounts derived by the Authority from the loan agreement or lease agreement with respect to the project or projects; and bonds may be issued as general obligations of the Authority payable from such revenues, funds and obligations of the Authority as the bond resolution shall provide, or may be issued as limited obligations with a claim for payment solely from such revenues, funds and obligations as the bond resolution shall provide. The Authority may grant a specific pledge or assignment of and lien on or security interest in such rights, revenues, income, or amounts and may grant a specific pledge or assignment of and lien on or security interest in any reserves, funds or accounts established in the resolution authorizing the issuance of bonds. Any such pledge, assignment, lien or security interest for the benefit of the holders of the Authority's bonds shall be valid and binding from the time the bonds are issued without any physical delivery or further act, and shall be valid and binding as against and prior to the claims of all other parties having claims against the Authority or any other person irrespective of whether the other parties have notice of the pledge, assignment, lien or security interest. As evidence of such pledge, assignment, lien and security interest, the Authority may execute and deliver a mortgage, trust agreement, indenture or security agreement or an assignment thereof. A remedy for any breach or default of the terms of any such agreement by the Authority may be by mandamus proceedings in any court of competent jurisdiction to compel the performance and compliance therewith, but the agreement may prescribe by whom or on whose behalf such action may be instituted. It is expressly understood that the Authority may, but need not, acquire title to any

project with respect to which it exercises its authority.

(d) With respect to the powers granted by this Act, the Authority may adopt rules and regulations prescribing the procedures by which persons may apply for assistance under this Act. Nothing herein shall be deemed to preclude the Authority, prior to the filing of any formal application, from conducting preliminary discussions and investigations with respect to the subject matter of any prospective application.

(e) The Authority shall have power to acquire by purchase, lease, gift or otherwise any property or rights therein from any person useful for its purposes, whether improved for the purposes of any prospective project, or unimproved. The Authority may also accept any donation of funds for its purposes from any such source. The Authority shall have no independent power of condemnation but may acquire any property or rights therein obtained upon condemnation by any other authority, governmental entity or unit of local government with such power.

(f) The Authority shall have power to develop, construct and improve either under its own direction, or through collaboration with any approved applicant, or to acquire through purchase or otherwise, any project, using for such purpose the proceeds derived from the sale of its bonds or from governmental loans or grants, and to hold title in the name of the Authority to such projects.

(g) The Authority shall have power to lease pursuant to a lease agreement any project so developed and constructed or acquired to the approved tenant on such terms and conditions as may be appropriate to further the purposes of this Act and to maintain the credit of the Authority. Any such lease may provide for either the Authority or the approved tenant to assume initially, in whole or in part, the costs of maintenance, repair and improvements during the leasehold period. In no case, however, shall the total rentals from any project during any initial leasehold period or the total loan repayments to be made pursuant to any loan agreement, be less than an amount necessary to return over such lease or loan period (1) all costs incurred in connection with the development, construction, acquisition or improvement of the project and for repair, maintenance and improvements thereto during the period of the lease or loan; provided, however, that the rentals or loan repayments need not include costs met through the use of funds other than those obtained by the Authority through the issuance of its bonds or governmental loans; (2) a reasonable percentage additive to be agreed upon by the Authority and the borrower or tenant to cover a properly allocable portion of the Authority's general expenses, including, but not limited to, administrative expenses, salaries and general insurance, and (3) an amount sufficient to pay when due all principal of, interest and premium, if any on, any bonds issued by the Authority with respect to the project. The portion of total rentals payable under clause (3) of this subsection (g) shall be deposited in such special accounts, including all sinking funds, acquisition or construction funds, debt service and other funds as provided by any resolution, mortgage or trust agreement of the Authority pursuant to which any bond is issued.

(h) The Authority has the power, upon the termination of any leasehold period of any project, to sell or lease for a further term or terms such project on such terms and conditions as the Authority shall deem reasonable and consistent with the purposes of the Act. The net proceeds from all such sales and the revenues or income from such leases shall be used to satisfy any indebtedness of the Authority with respect to such project and any balance may be used to pay any expenses of the Authority or be used for the further development, construction, acquisition or improvement of projects. In the event any project is vacated by a tenant prior to the termination of the initial leasehold period, the Authority shall sell or lease the facilities of the project on the most advantageous terms available. The net proceeds of any such disposition shall be treated in the same manner as the proceeds from sales or the revenues or income from leases subsequent to the termination of any initial leasehold period.

(i) The Authority shall have the power to make loans to persons to finance a project, to enter into loan agreements with respect thereto, and to accept guarantees from persons of its loans or the resultant evidences of obligations of the Authority.

(j) The Authority may fix, determine, charge and collect any premiums, fees, charges, costs and expenses, including, without limitation, any application fees, commitment fees, program fees, financing charges or publication fees from any person in connection with its activities under this Act.

(k) In addition to the funds established as provided herein, the Authority shall have the power to create and establish such reserve funds and accounts as may be necessary or desirable to accomplish its purposes under this Act and to deposit its available monies into the funds and accounts.

(l) At the request of the governing body of any unit of local government, the Authority is authorized to market such local government's revenue bond offerings by preparing bond issues for sale, advertising for sealed bids, receiving bids at its offices, making the award to the bidder that offers the most favorable terms or arranging for negotiated placements or underwritings of such securities. The Authority may, at its discretion, offer for concurrent sale the revenue bonds of several local governments. Sales by the Authority

of revenue bonds under this Section shall in no way imply State guarantee of such debt issue. The Authority may require such financial information from participating local governments as it deems necessary in order to carry out the purposes of this subsection (1).

(m) The Authority may make grants to any county to which Division 5-37 of the Counties Code is applicable to assist in the financing of capital development, construction and renovation of new or existing facilities for hospitals and health care facilities under that Act. Such grants may only be made from funds appropriated for such purposes from the Build Illinois Bond Fund.

(n) The Authority may establish an urban development action grant program for the purpose of assisting municipalities in Illinois which are experiencing severe economic distress to help stimulate economic development activities needed to aid in economic recovery. The Authority shall determine the types of activities and projects for which the urban development action grants may be used, provided that such projects and activities are broadly defined to include all reasonable projects and activities the primary objectives of which are the development of viable urban communities, including decent housing and a suitable living environment, and expansion of economic opportunity, principally for persons of low and moderate incomes. The Authority shall enter into grant agreements from monies appropriated for such purposes from the Build Illinois Bond Fund. The Authority shall monitor the use of the grants, and shall provide for audits of the funds as well as recovery by the Authority of any funds determined to have been spent in violation of this subsection (n) or any rule or regulation promulgated hereunder. The Authority shall provide technical assistance with regard to the effective use of the urban development action grants. The Authority shall file an annual report to the General Assembly concerning the progress of the grant program.

(o) The Authority may establish a Housing Partnership Program whereby the Authority provides zero-interest loans to municipalities for the purpose of assisting in the financing of projects for the rehabilitation of affordable multi-family housing for low and moderate income residents. The Authority may provide such loans only upon a municipality's providing evidence that it has obtained private funding for the rehabilitation project. The Authority shall provide 3 State dollars for every 7 dollars obtained by the municipality from sources other than the State of Illinois. The loans shall be made from monies appropriated for such purpose from the Build Illinois Bond Fund. The total amount of loans available under the Housing Partnership Program shall not exceed \$30,000,000. State loan monies under this subsection shall be used only for the acquisition and rehabilitation of existing buildings containing 4 or more dwelling units. The terms of any loan made by the municipality under this subsection shall require repayment of the loan to the municipality upon any sale or other transfer of the project.

(p) The Authority may award grants to universities and research institutions, research consortiums and other not-for-profit entities for the purposes of: remodeling or otherwise physically altering existing laboratory or research facilities, expansion or physical additions to existing laboratory or research facilities, construction of new laboratory or research facilities or acquisition of modern equipment to support laboratory or research operations provided that such grants (i) be used solely in support of project and equipment acquisitions which enhance technology transfer, and (ii) not constitute more than 60 percent of the total project or acquisition cost.

(q) Grants may be awarded by the Authority to units of local government for the purpose of developing the appropriate infrastructure or defraying other costs to the local government in support of laboratory or research facilities provided that such grants may not exceed 40% of the cost to the unit of local government.

(r) The Authority may establish a Direct Loan Program to make loans to individuals, partnerships or corporations for the purpose of an industrial project, as defined in Section 801-10 of this Act. For the purposes of such program and not by way of limitation on any other program of the Authority, the Authority shall have the power to issue bonds, notes, or other evidences of indebtedness including commercial paper for purposes of providing a fund of capital from which it may make such loans. The Authority shall have the power to use any appropriations from the State made especially for the Authority's Direct Loan Program for additional capital to make such loans or for the purposes of reserve funds or pledged funds which secure the Authority's obligations of repayment of any bond, note or other form of indebtedness established for the purpose of providing capital for which it intends to make such loans under the Direct Loan Program. For the purpose of obtaining such capital, the Authority may also enter into agreements with financial institutions and other persons for the purpose of selling loans and developing a secondary market for such loans. Loans made under the Direct Loan Program may be in an amount not to exceed \$300,000 and shall be made for a portion of an industrial project which does not exceed 50% of the total project. No loan may be made by the Authority unless approved by the affirmative vote of at least 8

members of the board. The Authority shall establish procedures and publish rules which shall provide for the submission, review, and analysis of each direct loan application and which shall preserve the ability of each board member to reach an individual business judgment regarding the propriety of making each direct loan. The collective discretion of the board to approve or disapprove each loan shall be unencumbered. The Authority may establish and collect such fees and charges, determine and enforce such terms and conditions, and charge such interest rates as it determines to be necessary and appropriate to the successful administration of the Direct Loan Program. The Authority may require such interests in collateral and such guarantees as it determines are necessary to protect the Authority's interest in the repayment of the principal and interest of each loan made under the Direct Loan Program.

(s) The Authority may guarantee private loans to third parties up to a specified dollar amount in order to promote economic development in this State.

(t) The Authority may adopt rules and regulations as may be necessary or advisable to implement the powers conferred by this Act.

(u) The Authority shall have the power to issue bonds, notes or other evidences of indebtedness, which may be used to make loans to units of local government which are authorized to enter into loan agreements and other documents and to issue bonds, notes and other evidences of indebtedness for the purpose of financing the protection of storm sewer outfalls, the construction of adequate storm sewer outfalls, and the provision for flood protection of sanitary sewage treatment plants, in counties that have established a stormwater management planning committee in accordance with Section 5-1062 of the Counties Code. Any such loan shall be made by the Authority pursuant to the provisions of Section 820-5 to 820-60 of this Act. The unit of local government shall pay back to the Authority the principal amount of the loan, plus annual interest as determined by the Authority. The Authority shall have the power, subject to appropriations by the General Assembly, to subsidize or buy down a portion of the interest on such loans, up to 4% per annum.

(v) The Authority may accept security interests as provided in Sections 11-3 and 11-3.3 of the Illinois Public Aid Code.

(w) Moral Obligation. In the event that the Authority determines that monies of the Authority will not be sufficient for the payment of the principal of and interest on its bonds during the next State fiscal year, the Chairperson, as soon as practicable, shall certify to the Governor the amount required by the Authority to enable it to pay such principal of and interest on the bonds. The Governor shall submit the amount so certified to the General Assembly as soon as practicable, but no later than the end of the current State fiscal year. This subsection shall apply only to any bonds or notes as to which the Authority shall have determined, in the resolution authorizing the issuance of the bonds or notes, that this subsection shall apply. Whenever the Authority makes such a determination, that fact shall be plainly stated on the face of the bonds or notes and that fact shall also be reported to the Governor. In the event of a withdrawal of moneys from a reserve fund established with respect to any issue or issues of bonds of the Authority to pay principal or interest on those bonds, the Chairperson of the Authority, as soon as practicable, shall certify to the Governor the amount required to restore the reserve fund to the level required in the resolution or indenture securing those bonds. The Governor shall submit the amount so certified to the General Assembly as soon as practicable, but no later than the end of the current State fiscal year. The Authority shall obtain written approval from the Governor for any bonds and notes to be issued under this Section. In addition to any other bonds authorized to be issued under Sections 825-60, 825-65(e), 830-25 and 845-5, the principal amount of Authority bonds outstanding issued under this Section 801-40(w) or under 20 ILCS 3850/1-80 or 30 ILCS 360/2-6(c), which have been assumed by the Authority, shall not exceed \$150,000,000. This subsection (w) shall in no way be applied to any bonds issued by the Authority on behalf of the Illinois Power Agency under Section 825-90 of this Act.

(x) The Authority may enter into agreements or contracts with any person necessary or appropriate to place the payment obligations of the Authority under any of its bonds in whole or in part on any interest rate basis, cash flow basis, or other basis desired by the Authority, including without limitation agreements or contracts commonly known as "interest rate swap agreements", "forward payment conversion agreements", and "futures", or agreements or contracts to exchange cash flows or a series of payments, or agreements or contracts, including without limitation agreements or contracts commonly known as "options", "puts", or "calls", to hedge payment, rate spread, or similar exposure; provided that any such agreement or contract shall not constitute an obligation for borrowed money and shall not be taken into account under Section 845-5 of this Act or any other debt limit of the Authority or the State of Illinois.

(y) The Authority shall publish summaries of projects and actions approved by the members of the Authority on its website. These summaries shall include, but not be limited to, information regarding the:

- (1) project;
- (2) Board's action or actions;
- (3) purpose of the project;
- (4) Authority's program and contribution;
- (5) volume cap;
- (6) jobs retained;
- (7) projected new jobs;
- (8) construction jobs created;
- (9) estimated sources and uses of funds;
- (10) financing summary;
- (11) project summary;
- (12) business summary;
- (13) ownership or economic disclosure statement;
- (14) professional and financial information;
- (15) service area; and
- (16) legislative district.

The disclosure of information pursuant to this subsection shall comply with the Freedom of Information Act.

(Source: P.A. 94-91, eff. 7-1-05; 95-470, eff. 8-27-07; 95-481, eff. 8-28-07; 95-876, eff. 8-21-08.)

Section 95-30. The Fiscal Control and Internal Auditing Act is amended by changing Sections 1003, 2001, and 2002 as follows:

(30 ILCS 10/1003) (from Ch. 15, par. 1003)

Sec. 1003. Definitions.

(a) "Designated State agencies" include the offices of the Secretary of State, the State Comptroller, the State Treasurer, and the Attorney General, the State Board of Education, the State colleges and universities, the Illinois Toll Highway Authority, the Illinois Housing Development Authority, the public retirement systems, the Illinois Student Assistance Commission, the Illinois Finance Authority, the Environmental Protection Agency, the Capital Development Board, the Department of Military Affairs, the State Fire Marshal, and each Department of State government created in Article 5, Section 5-15 of the Civil Administrative Code of Illinois and other State agencies designated by the Governor under Section 2001.

(b) "State agency" means that term as defined in the Illinois State Auditing Act, as now or hereafter amended, except the judicial branch which shall be covered by subsection (c) of Section 2001 and Section 3004 of this Act.

(c) "Chief executive officer" includes, respectively, the Secretary of State, the State Comptroller, the State Treasurer, the Attorney General, the State Superintendent of Education, such chief executive officers as are designated by the governing board of each State college and university, the executive director of the Illinois Toll Highway Authority, and the executive director of the Illinois Housing Development Authority, as well as the chief executive officer of each designated other State agency.

(Source: P.A. 86-936.)

(30 ILCS 10/2001) (from Ch. 15, par. 2001)

Sec. 2001. Program of internal auditing.

(a) Each designated State agency as defined in Section 1003(a) shall maintain establish a full-time program of internal auditing. ~~In the event that a designated State agency is merged, abolished, reorganized, or renamed, the successor State agency shall also be a designated State agency. The Governor shall designate State agencies under this Act not later than April 1 of each odd-numbered year. The designations shall be filed with the Index Division of the Office of the Secretary of State as a public record. The Legislative Audit Commission may make formal recommendations to the Governor that the Governor designate other State agencies under this Act.~~

(a-5) Within 30 days after the effective date of this amendatory Act of the 96th General Assembly, each chief internal auditor transferred under Executive Order 2003-10 to the Department of Central Management Services shall be transferred to the auditor's designated State agency, and if an auditor does not have a designated State agency or has more than one designated State agency, then the chief executive officer of a State agency shall appoint such person as the chief internal auditor of a State agency. A chief internal auditor transferred under this amendatory Act of the 96th General Assembly shall be appointed to a 5-year term beginning on the effective date of this amendatory Act of the 96th General Assembly.

The rights of employees and of the State and its agencies under the Personnel Code and applicable collective bargaining agreements or under any pension retirement or annuity plan shall not be affected by

this amendatory Act of the 96th General Assembly.

All books, records, papers, documents, property (real and personal), unexpended appropriations, and pending business pertaining to the functions transferred by this amendatory Act of the 96th General Assembly shall be delivered to the respective State agency pursuant to the direction of the chief executive officer of that State agency.

(b) The chief executive officer of a State agency is not relieved from the responsibility for maintaining an effective internal control system merely because that State agency is not designated and required to have a full-time program of internal auditing under this Act. Agencies which do not have full-time internal audit programs may have internal audits performed by the Department of Central Management Services.

(c) The Supreme Court will establish by its rulemaking authority or by administrative order a full-time program of internal auditing of State-funded activities of the judicial branch, which is consistent with the intent of this Article.

(Source: P.A. 86-936.)

(30 ILCS 10/2002) (from Ch. 15, par. 2002)

Sec. 2002. Qualifications of chief internal auditor.

(a) The chief executive officer of each designated State agency shall appoint a chief internal auditor with a bachelor's degree, who is either:

- (1) a certified internal auditor by examination or a certified public accountant and who has at least 4 years of progressively responsible professional auditing experience; or
- (2) an auditor with at least 5 years of progressively responsible professional auditing experience.

(b) The chief internal auditor shall report directly to the chief executive officer and shall have direct communications with the chief executive officer and the governing board, if applicable, in the exercise of auditing activities. All chief internal auditors and all full-time members of an internal audit staff shall be free of all operational duties.

(c) The chief internal auditor shall serve a 5-year term beginning on the date of the appointment. A chief internal auditor may be removed only for cause after a hearing before the Executive Ethics Commission concerning the removal. Any chief internal auditor who is appointed to replace a removed chief internal auditor may serve only until the expiration of the term of the removed chief internal auditor. The annual salary of a chief internal auditor cannot be diminished during the term of the chief internal auditor.

(Source: P.A. 86-936.)

Section 95-35. The Illinois Procurement Code is amended by changing Sections 1-15.15, 1-15.30, 1-15.70, 1-15.80, 5-5, 5-25, 10-5, 10-10, 10-15, 15-25, 15-30, 20-10, 20-25, 20-30, 20-50, 20-60, 20-65, 20-70, 20-75, 20-80, 20-155, 20-160, 40-25, 50-5, 50-10, 50-10.5, 50-11, 50-12, 50-14, 50-14.5, 50-20, 50-30, 50-35, 50-37, 50-60, 50-65, 50-70, and 53-10 and by adding Sections 1-15.107, 10-20, 10-25, 20-43, 20-120, 50-2, 50-21, 50-38, and 50-39 as follows:

(30 ILCS 500/1-15.15)

Sec. 1-15.15. Chief Procurement Officer. "Chief Procurement Officer" means any of the 4 persons appointed by a majority of the members of the Executive Ethics Commission for:

(1) ~~for~~ procurements for construction and construction-related services committed by law to the jurisdiction or responsibility of the Capital Development Board, ~~the executive director of the Capital Development Board.~~

(2) ~~for~~ procurements for all construction, construction-related services, operation of any facility, and the provision of any service or activity committed by law to the jurisdiction or responsibility of the Illinois Department of Transportation, including the direct or reimbursable expenditure of all federal funds for which the Department of Transportation is responsible or accountable for the use thereof in accordance with federal law, regulation, or procedure, ~~the Secretary of Transportation.~~

(3) ~~for~~ all procurements made by a public institution of higher education, ~~a representative designated by the Governor.~~

(4) (Blank). ~~for all procurements made by the Illinois Power Agency, the Director of the Illinois Power Agency.~~

(5) ~~for~~ all other procurements, ~~the Director of the Department of Central Management Services.~~

(Source: P.A. 95-481, eff. 8-28-07.)

(30 ILCS 500/1-15.30)

Sec. 1-15.30. Contract. "Contract" means all types of State agreements, including change orders and renewals, regardless of what they may be called, for the procurement, use, or disposal of supplies, services, professional or artistic services, or construction or for leases of real property, whether the State is lessor or

lessee, or capital improvements, and including master contracts, contracts for financing through use of installment or lease-purchase arrangements, renegotiated contracts, amendments to contracts, and change orders.

(Source: P.A. 90-572, eff. 2-6-98.)

(30 ILCS 500/1-15.70)

Sec. 1-15.70. Purchasing agency. "Purchasing agency" means a State agency that enters into a contract at the direction of a State purchasing officer authorized by a chief procurement officer or a chief procurement officer. "Purchasing agency" means a State agency that is authorized by this Code, by its implementing rules, or by authorized delegation of a chief procurement officer to enter into contracts.

(Source: P.A. 90-572, eff. 2-6-98.)

(30 ILCS 500/1-15.80)

Sec. 1-15.80. Responsible bidder or offeror. "Responsible bidder or offeror" means a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance. A responsible bidder or offeror shall not include a business or other entity that does not exist as a legal entity at the time a bid or proposal is submitted for a State contract.

(Source: P.A. 90-572, eff. 2-6-98.)

(30 ILCS 500/1-15.107 new)

Sec. 1-15.107. Subcontract. "Subcontract" means a contract between a person and a person who has or is seeking a contract subject to this Code, pursuant to which the subcontractor provides to the contractor or another subcontractor some or all of the goods, services, property, remuneration, or other forms of consideration that are the subject of the primary contract and includes, among other things, subleases from a lessee of a State agency.

(30 ILCS 500/5-5)

Sec. 5-5. Procurement Policy Board.

(a) Creation. There is created a Procurement Policy Board, an agency of the State of Illinois.

(b) Authority and duties. The Board shall have the authority and responsibility to review, comment upon, and recommend, consistent with this Code, rules and practices governing the procurement, management, control, and disposal of supplies, services, professional or artistic services, construction, and real property and capital improvement leases procured by the State. The Board shall also have the authority to recommend a program for professional development and provide opportunities for training in procurement practices and policies to chief procurement officers and their staffs in order to ensure that all procurement is conducted in an efficient, professional, and appropriately transparent manner.

Upon a three-fifths vote of its members, the Board may review a contract. Upon a three-fifths vote of its members, the Board may propose procurement rules for consideration by chief procurement officers. These proposals shall be published in each volume of the Procurement Bulletin. Except as otherwise provided by law, the Board shall act upon the vote of a majority of its members who have been appointed and are serving.

(b-5) Reviews, studies, and hearings. The Board may review, study, and hold public hearings concerning the implementation and administration of this Code. Each chief procurement officer, ~~associate procurement officer~~, State purchasing officer, procurement compliance monitor, and State agency shall cooperate with the Board, provide information to the Board, and be responsive to the Board in the Board's conduct of its reviews, studies, and hearings.

(c) Members. The Board shall consist of 5 members appointed one each by the 4 legislative leaders and the Governor. Each member shall have demonstrated sufficient business or professional experience in the area of procurement to perform the functions of the Board. No member may be a member of the General Assembly.

(d) Terms. Of the initial appointees, the Governor shall designate one member, as Chairman, to serve a one-year term, the President of the Senate and the Speaker of the House shall each appoint one member to serve 3-year terms, and the Minority Leader of the House and the Minority Leader of the Senate shall each appoint one member to serve 2-year terms. Subsequent terms shall be 4 years. Members may be reappointed for succeeding terms.

(e) Reimbursement. Members shall receive no compensation but shall be reimbursed for any expenses reasonably incurred in the performance of their duties.

(f) Staff support. Upon a three-fifths vote of its members, the Board may employ an executive director. Subject to appropriation, the Board also may employ a reasonable and necessary number of staff persons.

(g) Meetings. Meetings of the Board may be conducted telephonically, electronically, or through the use of other telecommunications. Written minutes of such meetings shall be created and available for public

inspection and copying.

(h) Procurement recommendations. Upon a three-fifths vote of its members, the Board may review a proposal, bid, or contract and issue a recommendation to void a contract or reject a proposal or bid based on any violation of this Code or the existence of a conflict of interest as described in subsections (b) and (d) of Section 50-35. A chief procurement officer or State purchasing officer shall notify the Board if a conflict of interest is identified, discovered, or reasonably suspected to exist. Any person or entity may notify the Board of a conflict of interest. A recommendation of the Board shall be delivered to the appropriate chief procurement officer and Executive Ethics Commission within 5 days and must be published in the next volume of the Procurement Bulletin.

(i) The Board shall refer any alleged violations of this Code to the Executive Inspector General in addition to or instead of issuing a recommendation to void a contract.

(Source: P.A. 93-839, eff. 7-30-04.)

(30 ILCS 500/5-25)

Sec. 5-25. Rulemaking authority; agency policy; agency response.

(a) Rulemaking. A chief procurement officer ~~State agency~~ authorized to make procurements under this Code shall have the authority to promulgate rules to carry out that authority. That rulemaking on specific procurement topics is mentioned in specific Sections of this Code shall not be construed as prohibiting or limiting rulemaking on other procurement topics.

All rules shall be promulgated in accordance with the Illinois Administrative Procedure Act. Contractual provisions, specifications, and procurement descriptions are not rules and are not subject to the Illinois Administrative Procedure Act. All rules other than those promulgated by the Board shall be presented in writing to the Board and the Executive Procurement Officer for its review and comment. The Board and the Executive Procurement Officer shall express their ~~its~~ opinions and recommendations in writing. The Both ~~the~~ proposed rules and ~~Board~~ recommendations shall be made available for public review. The rules shall also be approved by ~~the applicable chief procurement officer and~~ the Joint Committee on Administrative Rules.

(b) Policy. Each chief procurement officer, ~~associate procurement officer, and State agency~~ shall promptly notify the Procurement Policy Board in writing of any proposed new procurement rule or policy or any proposed change in an existing procurement rule or policy.

(c) Response. Each State agency must respond promptly in writing to all inquiries and comments of the Procurement Policy Board or Executive Procurement Officer.

(Source: P.A. 93-839, eff. 7-30-04.)

(30 ILCS 500/10-5)

Sec. 10-5. Exercise of procurement authority. The chief procurement officer shall exercise all procurement authority created by this Code. The State purchasing officers appointed under this Code shall exercise procurement authority at the direction of their respective chief procurement officer. Decisions of a State purchasing officer are subject to review by the respective chief procurement officer. The State purchasing officers shall be appointed by their respective chief procurement officer and approved by the director of each State agency. The State purchasing officer of each State agency shall exercise the procurement authority created by this Code except as otherwise provided in this Code.

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/10-10)

Sec. 10-10. Independent State purchasing officers ~~General appointments~~.

(a) The chief procurement officer shall appoint and the director of each State agency shall approve a State purchasing officer for each agency that the chief procurement officer is responsible for under Section 1-15.15. A State purchasing officer shall be located in the State agency that the officer serves but shall report to his or her respective chief procurement officer. The State purchasing officer shall have direct communication with agency staff assigned to assist with any procurement process. At the direction of his or her respective chief procurement officer, a State purchasing officer shall enter into contracts for a purchasing agency. All actions of a State purchasing officer are subject to review by a chief procurement officer in accordance with procedures and policies established by the chief procurement officer.

(b) In addition to any other requirement or qualification required by State law, within 18 months after appointment, a State purchasing officer must be a Certified Professional Public Buyer or a Certified Public Purchasing Officer, pursuant to certification by the Universal Public Purchasing Certification Council. A State purchasing officer shall serve a term of 5-years beginning on the date of the officer's appointment. A State purchasing officer shall have an office located in the State agency that the officer serves but shall report to the chief procurement officer. A State purchasing officer may be removed by a chief procurement

officer for cause after a hearing by the Executive Ethics Commission. The chief procurement officer or executive officer of the State agency housing the State purchasing officer may institute a complaint against the State purchasing officer by filing such a complaint with the Commission and the Commission shall have a public hearing based on the complaint. The State purchasing officer, chief procurement officer, and executive officer of the State agency shall receive notice of the hearing and shall be permitted to present their respective arguments on the complaint. After the hearing, the Commission shall make a non-binding recommendation on whether the State purchasing officer shall be removed to exercise within his or her jurisdiction the procurement authority created by this Code. The salary of a State purchasing officer shall be established by the chief procurement officer and may not be diminished during the officer's term. In the absence of an appointed and approved State purchasing officer, the applicable chief procurement officer shall exercise the procurement authority created by this Code and may appoint a temporary acting State purchasing officer.

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/10-15)

Sec. 10-15. Procurement compliance monitors Associate Procurement Officers.

(a) The Executive Ethics Commission shall appoint procurement compliance monitors to oversee and review the procurement processes. Each procurement compliance monitor shall serve a term of 5 years beginning on the date of the officer's appointment. Each procurement compliance monitor shall have an office located in the State agency that the monitor serves but shall report to the appropriate chief procurement officer. The compliance monitor shall have direct communications with the executive officer of a State agency in exercising duties. A procurement compliance monitor may be removed only for cause after a hearing by the Executive Ethics Commission. The appropriate chief procurement officer or executive officer of the State agency housing the procurement compliance monitor may institute a complaint against the procurement compliance monitor with the Commission and the Commission shall hold a public hearing based on the complaint. The procurement compliance monitor, State purchasing officer, appropriate chief procurement officer, and executive officer of the State agency shall receive notice of the hearing and shall be permitted to present their respective arguments on the complaint. After the hearing, the Commission shall determine whether the procurement compliance monitor shall be removed. The salary of a procurement compliance monitor shall be established by the Executive Ethics Commission and may not be diminished during the officer's term.

(b) The procurement compliance monitor may: (i) review each contract or contract amendment prior to execution to ensure that applicable procurement and contracting standards were followed; (ii) attend any procurement meetings; (iii) access any records or files related to procurement; (iv) issue reports to the chief procurement officer on procurement issues that present issues or that have not been corrected after consultation with appropriate State officials; (v) ensure the State agency is maintaining appropriate records; and (vi) ensure transparency of the procurement process.

(c) If the procurement compliance monitor is aware of misconduct, waste, or inefficiency with respect to State procurement, the procurement compliance monitor shall advise the State agency of the issue. If the State agency does not correct the issue, the monitor shall report the problem to the chief procurement officer and Inspector General. The Governor, with the consent of the statutory chief procurement officers, may for proper and effective administration of this Code appoint associate procurement officers. All associate procurement officers shall be submitted to the Senate for advice and consent. For the purposes of this Code, duly appointed associate procurement officers shall function in all respects as chief procurement officers. Associate procurement officers shall serve at the pleasure of the Governor.

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/10-20 new)

Sec. 10-20. Independent chief procurement officers.

(a) Appointment. Within 60 days after the effective date of this amendatory Act of the 96th General Assembly, the Executive Ethics Commission, with the advice and consent of the Senate shall appoint 4 chief procurement officers, one for each of the following categories:

(1) for procurements for construction and construction-related services committed by law to the jurisdiction or responsibility of the Capital Development Board;

(2) for procurements for all construction, construction-related services, operation of any facility, and the provision of any service or activity committed by law to the jurisdiction or responsibility of the Illinois Department of Transportation, including the direct or reimbursable expenditure of all federal funds for which the Department of Transportation is responsible or accountable for the use thereof in accordance with federal law, regulation, or procedure;

(3) for all procurements made by a public institution of higher education; and

(4) for all other procurement needs of State agencies.

A chief procurement officer shall be responsible to the Executive Ethics Commission but must be located within the agency that the officer provides with procurement services. The chief procurement officer for higher education shall have an office located within the Board of Higher Education, unless otherwise designated by the Executive Ethics Commission. The chief procurement officer for all other procurement needs of the State shall have an office located within the Department of Central Management Services, unless otherwise designated by the Executive Ethics Commission.

(b) Terms and independence. Each chief procurement officer appointed under this Section shall serve for a term of 5 years beginning on the date of the officer's appointment. The chief procurement officer may be removed for cause after a hearing by the Executive Ethics Commission. The Governor or the director of a State agency directly responsible to the Governor may institute a complaint against the officer by filing such complaint with the Commission. The Commission shall have a hearing based on the complaint. The officer and the complainant shall receive reasonable notice of the hearing and shall be permitted to present their respective arguments on the complaint. After the hearing, the Commission shall make a finding on the complaint and may take disciplinary action, including but not limited to removal of the officer.

The salary of a chief procurement officer shall be established by the Executive Ethics Commission and may not be diminished during the officer's term. The salary may not exceed the salary of the director of a State agency for which the officer serves as chief procurement officer.

(c) Qualifications. In addition to any other requirement or qualification required by State law, each chief procurement officer must within 12 months of employment be a Certified Professional Public Buyer or a Certified Public Purchasing Officer, pursuant to certification by the Universal Public Purchasing Certification Council, and must reside in Illinois.

(d) Fiduciary duty. Each chief procurement officer owes a fiduciary duty to the State.

(30 ILCS 500/10-25 new)

Sec. 10-25. Executive Procurement Officer. The Governor shall appoint an Executive Procurement Officer to conduct a review of State procurement practices. The Executive Procurement Officer shall provide advice to the chief procurement officers in developing procurement practices that represent the best interest of the State, including but not limited to providing advice and assistance with advertising opportunities to do business with Illinois, bid protests and complaints, development of forms, and rules promulgated in accordance with the Illinois Administrative Procedure Act. The Officer may also provide advice to the Executive Ethics Commission on the development of procurement related policies. The Executive Procurement Officer is an advisory position and does not have authority to supervise or direct chief procurement officers, State procurement officers, procurement compliance monitors, or their respective staffs. The Executive Procurement Officer's compensation shall be established by the Governor and paid from appropriations made to the Office of the Governor.

This Section is repealed the second Monday of January 2011.

(30 ILCS 500/15-25)

Sec. 15-25. Bulletin content.

(a) Invitations for bids. Notice of each and every contract that is offered, including renegotiated contracts and change orders, shall be published in the Bulletin. The applicable chief procurement officer may provide by rule an organized format for the publication of this information, but in any case it must include at least the date first offered, the date submission of offers is due, the location that offers are to be submitted to, the purchasing State agency, the responsible State purchasing officer, a brief purchase description, the method of source selection, information of how to obtain a comprehensive purchase description and any disclosure and contract forms, and encouragement to prospective vendors to hire qualified veterans, as defined by Section 45-67 of this Code, and Illinois residents discharged from any Illinois adult correctional center.

(b) Contracts let or awarded. Notice of each and every contract that is let or awarded, including renegotiated contracts and change orders, shall be published in the next available subsequent Bulletin, and the applicable chief procurement officer may provide by rule an organized format for the publication of this information, but in any case it must include at least all of the information specified in subsection (a), ~~as well as~~ the name of the successful responsible bidder or offeror, the contract price, the number of unsuccessful responsive bidders, the information required in subsection (g) of Section 20-10 if applicable, and any other disclosure specified in any Section of this Code. This notice must be posted in the online electronic Bulletin no later than 10 days after the contract is awarded ~~prior to execution of the contract.~~

(c) Emergency purchase disclosure. Any chief procurement officer ~~or~~ State purchasing officer, ~~or~~ ~~designee~~ exercising emergency purchase authority under this Code shall publish a written description and

reasons and the total cost, if known, or an estimate if unknown and the name of the responsible chief procurement officer and State purchasing officer, and the business or person contracted with for all emergency purchases in the next timely, practicable Bulletin. This notice must be posted in the online electronic Bulletin no later than 3 ~~within 3~~ business days after the ~~execution of the contract is awarded~~. Notice of a hearing to extend an emergency contract must be posted in the online electronic Procurement Bulletin no later than 5 business days prior to the hearing.

(c-5) Business Enterprise Program report. Each purchasing agency shall post in the online electronic Bulletin a copy of its annual report of utilization of businesses owned by minorities, females, and persons with disabilities as submitted to the Business Enterprise Council for Minorities, Females, and Persons with Disabilities pursuant to Section 6(c) of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act within 10 business days after its submission of its report to the Council.

(c-10) Renewals. Notice of each contract renewal shall be posted in the online electronic Bulletin within 10 days of the determination to renew the contract and the next available subsequent Bulletin. The notice shall include at least all of the information required in subsection (b).

(c-15) Sole source procurements. Before entering into a sole source contract, a chief procurement officer exercising sole source procurement authority under this Code shall publish a written description of intent to enter into a sole source contract along with a description of the item to be procured and the intended sole source contractor. This notice must be posted in the online electronic Procurement Bulletin before a sole source contract is awarded and at least 14 days before the hearing required by Section 20-25.

(d) Other required disclosure. The applicable chief procurement officer shall provide by rule for the organized publication of all other disclosure required in other Sections of this Code in a timely manner.

(e) The changes to subsections (b), (c), (c-5), (c-10), and (c-15) of this Section made by this amendatory Act of the 96th General Assembly apply to reports submitted, offers made, and notices on contracts executed on or after its effective date.

(Source: P.A. 94-1067, eff. 8-1-06; 95-536, eff. 1-1-08.)

(30 ILCS 500/15-30)

Sec. 15-30. Electronic Bulletin clearinghouse.

(a) The Procurement Policy Board shall maintain on its official website a searchable database containing all information required to be included in the Illinois Procurement Bulletin under subsections (b), ~~and (c)~~, (c-10), and (c-15) of Section 15-25 and all information required to be disclosed under Section 50-41. The posting of procurement information on the website is subject to the same posting requirements as the online electronic Bulletin.

(b) For the purposes of this Section, searchable means searchable and sortable by successful responsible bidder or offeror or, for emergency purchases, business or person contracted with; the contract price or total cost; the service or good; the purchasing State agency; and the date first offered or announced.

~~(c) The Department of Central Management Services, the Capital Development Board, the Department of Transportation, and the higher education~~ chief procurement officer shall provide the Procurement Policy Board the information and resources necessary, and in a manner, to effectuate the purpose of this Section.

(Source: P.A. 95-536, eff. 1-1-08.)

(30 ILCS 500/20-10)

Sec. 20-10. Competitive sealed bidding.

(a) Conditions for use. All contracts shall be awarded by competitive sealed bidding except as otherwise provided in Section 20-5.

(b) Invitation for bids. An invitation for bids shall be issued and shall include a purchase description and the material contractual terms and conditions applicable to the procurement.

(c) Public notice. Public notice of the invitation for bids shall be published in the Illinois Procurement Bulletin at least 14 days before the date set in the invitation for the opening of bids.

(d) Bid opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, the amount of each bid, and other relevant information as may be specified by rule shall be recorded. After the award of the contract, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

(e) Bid acceptance and bid evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Code. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award, such as discounts, transportation costs, and total or life cycle costs, shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to

be used.

(f) Correction or withdrawal of bids. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards of contracts based on bid mistakes, shall be permitted in accordance with rules. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the State or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids based on bid mistakes shall be supported by written determination made by a State purchasing officer.

(g) Award. The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids, except when a State purchasing officer determines it is not in the best interest of the State and by written explanation determines another bidder shall receive the award. The explanation shall appear in the appropriate volume of the Illinois Procurement Bulletin. The written explanation must include:

- (1) a description of the agency's needs;
- (2) a determination that the anticipated cost will be fair and reasonable;
- (3) a listing of all responsible and responsive bidders; and
- (4) the name of the bidder selected, pricing, and the reasons for selecting that bidder.

Each chief procurement officer may adopt guidelines to implement the requirements of this subsection (g).

The written explanation shall be filed with the Legislative Audit Commission and the Procurement Policy Board and be made available for inspection by the public within 30 days after the agency's decision to award the contract.

(h) Multi-step sealed bidding. When it is considered impracticable to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(i) Alternative procedures. Notwithstanding any other provision of this Act to the contrary, the Director of the Illinois Power Agency may create alternative bidding procedures to be used in procuring professional services under Section 1-75(a) of the Illinois Power Agency Act and Section 16-111.5(c) of the Public Utilities Act. These alternative procedures shall be set forth together with the other criteria contained in the invitation for bids, and shall appear in the appropriate volume of the Illinois Procurement Bulletin.

(j) Reverse auction. Notwithstanding any other provision of this Section and in accordance with rules adopted by the chief procurement officer, that chief procurement officer may procure supplies or services through a competitive electronic auction bidding process after the chief procurement officer determines that the use of such a process will be in the best interest of the State. The chief procurement officer shall publish that determination in his or her next volume of the Illinois Procurement Bulletin.

An invitation for bids shall be issued and shall include (i) a procurement description, (ii) all contractual terms, whenever practical, and (iii) conditions applicable to the procurement, including a notice that bids will be received in an electronic auction manner.

Public notice of the invitation for bids shall be given in the same manner as provided in subsection (c).

Bids shall be accepted electronically at the time and in the manner designated in the invitation for bids. During the auction, a bidder's price shall be disclosed to other bidders. Bidders shall have the opportunity to reduce their bid prices during the auction. At the conclusion of the auction, the record of the bid prices received and the name of each bidder shall be open to public inspection.

After the auction period has terminated, withdrawal of bids shall be permitted as provided in subsection (f).

The contract shall be awarded within 60 days after the auction by written notice to the lowest responsible bidder, or all bids shall be rejected except as otherwise provided in this Code. Extensions of the date for the award may be made by mutual written consent of the State purchasing officer and the lowest responsible bidder.

This subsection does not apply to (i) procurements of professional and artistic services, (ii) telecommunications services, communication services, and information services, and (iii) contracts for construction projects.

(Source: P.A. 95-481, eff. 8-28-07.)

(30 ILCS 500/20-25)

Sec. 20-25. Sole source procurements.

(a) In accordance with standards set by rule, contracts may be awarded without use of the specified method of source selection when there is only one economically feasible source for the item. A State contract may not be awarded as a sole source procurement unless approved by the chief procurement

officer following a public hearing at which the chief procurement officer and purchasing agency present written justification for the procurement method. The Procurement Policy Board and the public may present testimony.

(b) This Section may not be used as a basis for amending a contract for professional or artistic services if the amendment would result in an increase in the amount paid under the contract of more than 5% of the initial award, or would extend the contract term beyond the time reasonably needed for a competitive procurement, not to exceed 2 months.

(c) Notice of intent to enter into a sole source contract shall be provided to the Procurement Policy Board and published in the online electronic Bulletin at least 14 days before the public hearing required in subsection (a). The notice shall include the sole source procurement justification form prescribed by the Board, a description of the item to be procured, the intended sole source contractor, and the date, time, and location of the public hearing. A copy of the notice and all documents provided at the hearing shall be included in the subsequent Procurement Bulletin.

At least 2 weeks before entering into a sole source contract, the purchasing agency shall publish in the Illinois Procurement Bulletin a notice of intent to do so along with a description of the item to be procured and the intended sole source contractor.

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/20-30)

Sec. 20-30. Emergency purchases.

(a) Conditions for use. In accordance with standards set by rule, a purchasing agency may make emergency procurements without competitive sealed bidding or prior notice when there exists a threat to public health or public safety, or when immediate expenditure is necessary for repairs to State property in order to protect against further loss of or damage to State property, to prevent or minimize serious disruption in critical State services that affect health, safety, or collection of substantial State revenues, or to ensure the integrity of State records; provided, however, that the term of the emergency purchase shall be limited to the time reasonably needed for a competitive procurement, not to exceed 90 days. A contract may be extended beyond 90 days if the chief procurement officer determines additional time is necessary and that the contract scope and duration are limited to the emergency. Prior to execution of the extension, the chief procurement officer must hold a public hearing and provide written justification for all emergency contracts. Members of the public may present testimony. Emergency procurements shall be made with as much competition as is practicable under the circumstances. A written description of the basis for the emergency and reasons for the selection of the particular contractor shall be included in the contract file.

(b) Notice. Notice of all emergency procurements shall be provided to the Procurement Policy Board and published in the online electronic Bulletin no later than 3 business days after the contract is awarded. Notice of intent to extend an emergency contract shall be provided to the Procurement Policy Board and published in the online electronic Bulletin at least 14 days before the public hearing. Notice shall include at least a description of the need for the emergency purchase, the contractor, and if applicable, the date, time, and location of the public hearing. A copy of this notice and all documents provided at the hearing shall be included in the subsequent Procurement Bulletin. Before the next appropriate volume of the Illinois Procurement Bulletin, the purchasing agency shall publish in the Illinois Procurement Bulletin a copy of each written description and reasons and the total cost of each emergency procurement made during the previous month. When only an estimate of the total cost is known at the time of publication, the estimate shall be identified as an estimate and published. When the actual total cost is determined, it shall also be published in like manner before the 10th day of the next succeeding month.

(c) Affidavits. A ~~chief procurement officer purchasing agency~~ making a procurement under this Section shall file affidavits with the Procurement Policy Board ~~chief procurement officer~~ and the Auditor General within 10 days after the procurement setting forth the amount expended, the name of the contractor involved, and the conditions and circumstances requiring the emergency procurement. When only an estimate of the cost is available within 10 days after the procurement, the actual cost shall be reported immediately after it is determined. At the end of each fiscal quarter, the Auditor General shall file with the Legislative Audit Commission and the Governor a complete listing of all emergency procurements reported during that fiscal quarter. The Legislative Audit Commission shall review the emergency procurements so reported and, in its annual reports, advise the General Assembly of procurements that appear to constitute an abuse of this Section.

(d) Quick purchases. The chief procurement officer may promulgate rules extending the circumstances by which a purchasing agency may make purchases under this Section, including but not limited to the procurement of items available at a discount for a limited period of time.

(e) The changes to this Section made by this amendatory Act of the 96th General Assembly apply to procurements executed on or after its effective date.

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/20-43 new)

Sec. 20-43. Bidder or offeror authorized to do business in Illinois. In addition to meeting any other requirement of law or rule, a person (other than an individual acting as a sole proprietor) may qualify as a bidder or offeror under this Code only if the person is a legal entity authorized to do business in Illinois prior to submitting the bid, offer, or proposal.

(30 ILCS 500/20-50)

Sec. 20-50. Specifications. Specifications shall be prepared in accordance with consistent standards that are promulgated by the chief procurement officer and reviewed by the Board and the Joint Committee on Administrative Rules. Those standards shall include a prohibition against the use of brand-name only products, except for products intended for retail sale or as specified by rule, ~~and shall include a restriction on the use of specifications drafted by a potential bidder.~~ All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the State's needs and shall not be unduly restrictive.

A solicitation or specification for a contract or a contract, including a contract but not limited to of a college, university, or institution under the jurisdiction of a governing board listed in Section 1-15.100, may not require, stipulate, suggest, or encourage a monetary or other financial contribution or donation, cash bonus or incentive, or economic investment as an explicit or implied term or condition for awarding or completing the contract. The contract, solicitation, or specification also may not include a requirement that an individual or individuals employed by such a college, university, or institution receive a consulting contract for professional services.

(Source: P.A. 90-572, eff. date - See Sec. 99-5; 91-627, eff. 8-19-99.)

(30 ILCS 500/20-60)

Sec. 20-60. Duration of contracts.

(a) Maximum duration. A contract, other than a contract entered into pursuant to the State University Certificates of Participation Act, may be entered into for any period of time deemed to be in the best interests of the State but not exceeding 10 years inclusive of proposed contract renewals. The length of a lease for real property or capital improvements shall be in accordance with the provisions of Section 40-25. A contract for bond or mortgage insurance awarded by the Illinois Housing Development Authority, however, may be entered into for any period of time less than or equal to the maximum period of time that the subject bond or mortgage may remain outstanding.

(b) Subject to appropriation. All contracts made or entered into shall recite that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of the contract.

(Source: P.A. 95-344, eff. 8-21-07.)

(30 ILCS 500/20-65)

Sec. 20-65. Right to audit records.

(a) Maintenance of books and records. Every contract and subcontract shall require the contractor or subcontractor, as applicable, to maintain books and records relating to the performance of the contract or subcontract and necessary to support amounts charged to the State under the contract or subcontract. The books and records shall be maintained by the contractor for a period of 3 years from the later of the date of final payment under the contract or completion of the contract and by the subcontractor for a period of 3 years from the later of the date of final payment under the subcontract or completion of the subcontract. However, the 3-year period shall be extended for the duration of any audit in progress at the time of that period's expiration.

(b) Audit. Every contract and subcontract shall provide that all books and records required to be maintained under subsection (a) shall be available for review and audit by the Auditor General, chief procurement officer, internal auditor, and the purchasing agency. Every contract and subcontract shall require the contractor and subcontractor, as applicable, to cooperate fully with any audit.

(c) Failure to maintain books and records. Failure to maintain the books and records required by this Section shall establish a presumption in favor of the State for the recovery of any funds paid by the State for which required books and records are not available.

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/20-70)

Sec. 20-70. Finality of determinations. Except as otherwise provided in this Code, determinations

~~Determinations~~ made by a chief procurement officer, State purchasing officer, or a purchasing agency under this Code are final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/20-75)

Sec. 20-75. Disputes and protests. The chief procurement officers shall by rule establish procedures to be followed ~~by purchasing agencies~~ in resolving protested solicitations and awards and contract controversies, for debarment or suspension of contractors, and for resolving other procurement-related disputes.

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/20-80)

Sec. 20-80. Contract files.

(a) Written determinations. All written determinations required under this Article shall be placed in the contract file maintained by the chief procurement officer.

(b) Filing with Comptroller. Whenever a grant, defined pursuant to accounting standards established by the Comptroller, or a contract liability, except for: (1) contracts paid from personal services, or (2) contracts between the State and its employees to defer compensation in accordance with Article 24 of the Illinois Pension Code, exceeding \$10,000 is incurred by any State agency, a copy of the contract, purchase order, grant, or lease shall be filed with the Comptroller within 15 days thereafter. Any cancellation or modification to any such contract liability shall be filed with the Comptroller within 15 days of its execution.

(c) Late filing affidavit. When a contract, purchase order, grant, or lease required to be filed by this Section has not been filed within 30 days of execution, the Comptroller shall refuse to issue a warrant for payment thereunder until the agency files with the Comptroller the contract, purchase order, grant, or lease and an affidavit, signed by the chief executive officer of the agency or his or her designee, setting forth an explanation of why the contract liability was not filed within 30 days of execution. A copy of this affidavit shall be filed with the Auditor General.

(d) Timely execution of Professional and artistic services contracts. No voucher shall be submitted to the Comptroller for a warrant to be drawn for the payment of money from the State treasury or from other funds held by the State Treasurer on account of any contract ~~for services involving professional or artistic skills involving an expenditure of more than \$5,000 for the same type of service at the same location during any fiscal year~~ unless the contract is reduced to writing before the services are performed and filed with the Comptroller. Vendors shall not be paid for any goods that were received or services that were rendered before the contract was reduced to writing and signed by all necessary parties. A chief procurement officer may request an exception to this subsection by submitting a written statement to the Comptroller and Treasurer setting forth the circumstances and reasons why the contract could not be reduced to writing before the supplies were received or services were performed. A waiver of this subsection must be approved by the Comptroller and Treasurer. When a contract for professional or artistic skills in excess of \$5,000 was not reduced to writing before the services were performed, the Comptroller shall refuse to issue a warrant for payment for the services until the State agency files with the Comptroller:

(1) a written contract covering the services, and

(2) an affidavit, signed by the chief executive officer of the State agency or his or her designee, stating that the services for which payment is being made were agreed to before commencement of the services and setting forth an explanation of why the contract was not reduced to writing before the services commenced.

A copy of this affidavit shall be filed with the Auditor General. This Section shall not apply to emergency purchases if notice of the emergency purchase is filed with the Procurement Policy Board and published in the Bulletin as required by this Code. The Comptroller shall maintain professional or artistic service contracts filed under this Section separately from other filed contracts.

(e) Method of source selection. When a contract is filed with the Comptroller under this Section, the Comptroller's file shall identify the method of source selection used in obtaining the contract.

(Source: P.A. 90-572, eff. date - See Sec. 99-5; 91-904, eff. 7-6-00.)

(30 ILCS 500/20-120 new)

Sec. 20-120. Subcontractors.

(a) Any contract granted under this Code shall state whether the services of a subcontractor will or may be used. To the extent that the information is known, the contract shall include the names and addresses of all subcontractors and the expected amount of money each will receive under the contract. The contractor shall provide the chief procurement officer or State purchasing officer a copy of any subcontract so

identified within 20 days after the execution of the State contract or after execution of the subcontract, whichever is later.

(b) If at any time during the term of a contract, a contractor adds or changes any subcontractors, he or she shall promptly notify, in writing, the chief procurement officer, State purchasing officer, or their designee of the names and addresses and the expected amount of money each new or replaced subcontractor will receive. The contractor shall provide to the responsible chief procurement officer a copy of the subcontract within 20 days after the execution of the subcontract.

(c) In addition to any other requirements of this Code, a subcontract subject to this Section must include all of the subcontractor's certifications required by Article 50 of the Code.

(d) This Section applies to procurements executed on or after the effective date of this amendatory Act of the 96th General Assembly.

(30 ILCS 500/20-155)

Sec. 20-155. Solicitation and contract documents.

(a) After award of a contract and subject to provisions of the Freedom of Information Act, the procuring agency shall make available for public inspection and copying all pre-award, post-award, administration, and close-out documents relating to that particular contract.

(b) A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids and proposals, all evaluation materials, score sheets and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement file shall contain a written determination, signed by the chief procurement officer or State purchasing officer, setting forth the reasoning for the contract award decision. The procurement file shall be open to public inspection within 7 business days following award of the contract.

(Source: P.A. 94-978, eff. 6-30-06.)

(30 ILCS 500/20-160)

Sec. 20-160. Business entities; certification; registration with the State Board of Elections.

(a) For purposes of this Section, the terms "business entity", "contract", "State contract", "contract with a State agency", "State agency", "affiliated entity", and "affiliated person" have the meanings ascribed to those terms in Section 50-37.

(b) Every bid submitted to and every contract executed by the State on or after the effective date of this amendatory Act of the 95th General Assembly shall contain (1) a certification by the bidder or contractor that either (i) the bidder or contractor is not required to register as a business entity with the State Board of Elections pursuant to this Section or (ii) the bidder or contractor has registered as a business entity with the State Board of Elections and acknowledges a continuing duty to update the registration and (2) a statement that the contract is voidable under Section 50-60 for the bidder's or contractor's failure to comply with this Section.

(c) Within 30 days after the effective date of this amendatory Act of the 95th General Assembly, each business entity (i) whose aggregate bids and proposals on State contracts annually total more than \$50,000, (ii) whose aggregate bids and proposals on State contracts combined with the business entity's aggregate annual total value of State contracts exceed \$50,000, or (iii) whose contracts with State agencies, in the aggregate, annually total more than \$50,000 shall register with the State Board of Elections in accordance with Section 9-35 of the Election Code. A business entity required to register under this subsection shall submit a copy of the certificate of registration to the applicable chief procurement officer within 90 days after the effective date of this amendatory Act of the 95th General Assembly. A business entity required to register under this subsection due to item (i) or (ii) has a continuing duty to ensure that the registration is accurate during the period beginning on the date of registration and ending on the day after the date the contract is awarded; any change in information must be reported to the State Board of Elections 5 business days following such change or no later than a day before the contract is awarded, whichever date is earlier within 2 business days following such change. A business entity required to register under this subsection due to item (iii) has a continuing duty to report any changes in information to the State Board of Elections on the final day of January, April, July, and October of each year, or the first business day after such dates, if such dates do not fall on a business day ~~ensure that the registration is accurate in accordance with subsection (f).~~

(d) Any business entity, not required under subsection (c) to register within 30 days after the effective date of this amendatory Act of the 95th General Assembly, whose aggregate bids and proposals on State contracts annually total more than \$50,000, or whose aggregate bids and proposals on State contracts combined with the business entity's aggregate annual total value of State contracts exceed \$50,000, shall

register with the State Board of Elections in accordance with Section 9-35 of the Election Code prior to submitting to a State agency the bid or proposal whose value causes the business entity to fall within the monetary description of this subsection. A business entity required to register under this subsection has a continuing duty to ensure that the registration is accurate during the period beginning on the date of registration and ending on the day after the date the contract is awarded. Any change in information must be reported to the State Board of Elections within 5 business days following such change or no later than a day before the contract is awarded, whichever date is earlier ~~2 business days following such change.~~

(e) A business entity whose contracts with State agencies, in the aggregate, annually total more than \$50,000 must maintain its registration under this Section and has a continuing duty to ensure that the registration is accurate for the duration of the term of office of the incumbent officeholder awarding the contracts or for a period of 2 years following the expiration or termination of the contracts, whichever is longer. Any change in information shall be reported to the State Board of Elections on the final day of January, April, July, and October of each year, or the first business day after such dates, if such dates do not fall on a business day. If within 10 days following such change; however, if a business entity required to register under this subsection has a pending bid or proposal, any change in information shall be reported to the State Board of Elections within 5 business days following such change or no later than a day before the contract is awarded, whichever date is earlier ~~2 business days.~~

(f) A business entity's continuing duty under this Section to ensure the accuracy of its registration includes the requirement that the business entity notify the State Board of Elections of any change in information, including but not limited to changes of affiliated entities or affiliated persons.

(g) A copy of a certificate of registration must accompany any bid or proposal for a contract with a State agency by a business entity required to register under this Section. A chief procurement officer shall not accept a bid or proposal unless the certificate is submitted to the agency with the bid or proposal.

(h) A registration, and any changes to a registration, must include the business entity's verification of accuracy and subjects the business entity to the penalties of the laws of this State for perjury.

In addition to any penalty under Section 9-35 of the Election Code, intentional, willful, or material failure to disclose information required for registration shall render the contract, bid, proposal, or other procurement relationship voidable by the chief procurement officer if he or she deems it to be in the best interest of the State of Illinois.

(i) This Section applies regardless of the method of source selection used in awarding the contract.
(Source: P.A. 95-971, eff. 1-1-09.)

(30 ILCS 500/40-25)

Sec. 40-25. Length of leases.

(a) Maximum term. Leases shall be for a term not to exceed 10 years inclusive of proposed contract renewals and shall include a termination option in favor of the State after 5 years.

(b) Renewal. Leases may include a renewal option. An option to renew may be exercised only when a State purchasing officer determines in writing that renewal is in the best interest of the State and notice of the exercise of the option is published in the appropriate volume of the Procurement Bulletin at least 60 days prior to the exercise of the option.

(c) Subject to appropriation. All leases shall recite that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of the lease.

(d) Holdover. Beginning January 1, 2010, no lease may continue on a month-to-month or other holdover basis for a total of more than 6 months. Beginning July 1, 2010, the Comptroller shall withhold payment of leases beyond this holdover period.

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/50-2 new)

Sec. 50-2. Continuing disclosure; false certification. Every person that has entered into a multi-year contract and every subcontractor with a multi-year subcontract shall certify, by July 1 of each fiscal year covered by the contract after the initial fiscal year, to the responsible chief procurement officer whether it continues to satisfy the requirements of this Article pertaining to eligibility for a contract award. If a contractor or subcontractor is not able to truthfully certify that it continues to meet all requirements, it shall provide with its certification a detailed explanation of the circumstances leading to the change in certification status. A contractor or subcontractor that makes a false statement material to any given certification required under this Article is, in addition to any other penalties or consequences prescribed by law, subject to liability under the Whistleblower Reward and Protection Act for submission of a false claim.

(30 ILCS 500/50-5)

Sec. 50-5. Bribery.

(a) Prohibition. No person or business shall be awarded a contract or subcontract under this Code who:

(1) has been convicted under the laws of Illinois or any other state of bribery or attempting to bribe an officer or employee of the State of Illinois or any other state in that officer's or employee's official capacity; or

(2) has made an admission of guilt of that conduct that is a matter of record but has not been prosecuted for that conduct.

(b) Businesses. No business shall be barred from contracting with any unit of State or local government, or subcontracting under such a contract, as a result of a conviction under this Section of any employee or agent of the business if the employee or agent is no longer employed by the business and:

(1) the business has been finally adjudicated not guilty; or

(2) the business demonstrates to the governmental entity with which it seeks to contract or which is a signatory to the contract to which the subcontract relates, and that entity finds that the commission of the offense was not authorized, requested, commanded, or performed by a director, officer, or high managerial agent on behalf of the business as provided in paragraph (2) of subsection (a) of Section 5-4 of the Criminal Code of 1961.

(c) Conduct on behalf of business. For purposes of this Section, when an official, agent, or employee of a business committed the bribery or attempted bribery on behalf of the business and in accordance with the direction or authorization of a responsible official of the business, the business shall be chargeable with the conduct.

(d) Certification. Every bid submitted to and contract executed by the State and every subcontract subject to Section 20-120 of this Code shall contain a certification by the contractor or the subcontractor, respectively, that the contractor or subcontractor is not barred from being awarded a contract or subcontract under this Section and acknowledges that the chief procurement officer may declare the related contract void if any certifications required by this Section are false. A contractor who makes a false statement, material to the certification, commits a Class 3 felony.

(Source: P.A. 90-572, eff. 2-6-98.)

(30 ILCS 500/50-10)

Sec. 50-10. Felons.

(a) Unless otherwise provided, no person or business convicted of a felony shall do business with the State of Illinois or any State agency, or enter into a subcontract, from the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business.

(b) Every bid submitted to and contract executed by the State and every subcontract subject to Section 20-120 of this Code shall contain a certification by the bidder or contractor or subcontractor, respectively, that the bidder, contractor, or subcontractor is not barred from being awarded a contract or subcontract under this Section and acknowledges that the chief procurement officer may declare the related contract void if any of the certifications required by this Section are false.

(Source: P.A. 90-572, eff. 2-6-98.)

(30 ILCS 500/50-10.5)

Sec. 50-10.5. Prohibited bidders and contractors.

(a) Unless otherwise provided, no business shall bid or enter into a contract or subcontract under this Code with the State of Illinois or any State agency if the business or any officer, director, partner, or other managerial agent of the business has been convicted of a felony under the Sarbanes-Oxley Act of 2002 or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953 for a period of 5 years from the date of conviction.

(b) Every bid submitted to and contract executed by the State and every subcontract subject to Section 20-120 of this Code shall contain a certification by the bidder, ~~or contractor~~, or subcontractor, respectively, that the bidder, contractor, or subcontractor is not barred from being awarded a contract or subcontract under this Section and ~~that the contractor~~ acknowledges that the chief procurement officer contracting State agency shall declare the related contract void if any of the certifications certification completed pursuant to this subsection (b) are is false.

(c) If a business is not a natural person, the prohibition in subsection (a) applies only if:

(1) the business itself is convicted of a felony referenced in subsection (a); or

(2) the business is ordered to pay punitive damages based on the conduct of any

officer, director, partner, or other managerial agent who has been convicted of a felony referenced in subsection (a).

(d) A natural person who is convicted of a felony referenced in subsection (a) remains subject to Section 50-10.

(e) No person or business shall bid or enter into a contract under this Code if the person or business:

(1) assisted the State of Illinois or a State agency in determining whether there is a need for a contract except as part of a response to a publicly issued request for information; or

(2) assisted the State of Illinois or a State agency by reviewing, drafting, or preparing a request for proposals or request for information or provided similar assistance.

For purposes of this subsection (e), "business" includes all individuals with whom a business is affiliated, including, but not limited to, any officer, agent, employee, consultant, independent contractor, director, partner, manager, or shareholder of a business.

(Source: P.A. 93-600, eff. 1-1-04.)

(30 ILCS 500/50-11)

Sec. 50-11. Debt delinquency.

(a) No person shall submit a bid for or enter into a contract ~~or subcontract with a State agency~~ under this Code if that person knows or should know that he or she or any affiliate is delinquent in the payment of any debt to the State, unless the person or affiliate has entered into a deferred payment plan to pay off the debt. For purposes of this Section, the phrase "delinquent in the payment of any debt" shall be determined by the Debt Collection Board. For purposes of this Section, the term "affiliate" means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. For purposes of this subsection (a), a person controls an entity if the person owns, directly or individually, more than 10% of the voting securities of that entity. As used in this subsection (a), the term "voting security" means a security that (1) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (2) is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote. A general partnership interest is a voting security.

(b) Every bid submitted to and contract executed by the State ~~and every subcontract subject to Section 20-120 of this Code~~ shall contain a certification by the bidder, ~~or contractor, or subcontractor, respectively,~~ that the contractor ~~or the subcontractor~~ and its affiliate is not barred from being awarded a contract ~~or subcontract~~ under this Section and ~~that the contractor~~ acknowledges that the chief procurement officer contracting State agency may declare the related contract void if any of the certifications certification completed pursuant to this subsection (b) ~~are~~ is false.

(Source: P.A. 92-404, eff. 7-1-02; 93-25, eff. 6-20-03.)

(30 ILCS 500/50-12)

Sec. 50-12. Collection and remittance of Illinois Use Tax.

(a) No person shall enter into a contract with a State agency ~~or enter into a subcontract~~ under this Code unless the person and all affiliates of the person collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provisions of the Illinois Use Tax Act regardless of whether the person or affiliate is a "retailer maintaining a place of business within this State" as defined in Section 2 of the Use Tax Act. For purposes of this Section, the term "affiliate" means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. For purposes of this subsection (a), an entity controls another entity if it owns, directly or individually, more than 10% of the voting securities of that entity. As used in this subsection (a), the term "voting security" means a security that (1) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (2) is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote. A general partnership interest is a voting security.

(b) Every bid submitted and contract executed by the State ~~and every subcontract subject to Section 20-120 of this Code~~ shall contain a certification by the bidder, ~~or contractor, or subcontractor, respectively,~~ that the bidder, ~~or contractor, or subcontractor~~ is not barred from bidding for or entering into a contract under subsection (a) of this Section and ~~that the bidder or contractor~~ acknowledges that the chief procurement officer contracting State agency may declare the related contract void if any of the certifications certification completed pursuant to this subsection (b) ~~are~~ is false.

(Source: P.A. 93-25, eff. 6-20-03.)

(30 ILCS 500/50-14)

Sec. 50-14. Environmental Protection Act violations.

(a) Unless otherwise provided, no person or business found by a court or the Pollution Control Board to have committed a willful or knowing violation of the Environmental Protection Act shall do business with the State of Illinois or any State agency or enter into a subcontract that is subject to this Code from the date of the order containing the finding of violation until 5 years after that date, unless the person or business can show that no person involved in the violation continues to have any involvement with the business.

(b) A person or business otherwise barred from doing business with the State of Illinois or any State agency or subcontracting under this Code by subsection (a) may be allowed to do business with the State of Illinois or any State agency if it is shown that there is no practicable alternative to the State to contracting with that person or business.

(c) Every bid submitted to and contract executed by the State and every subcontract subject to Section 20-120 of this Code shall contain a certification by the bidder, ~~or contractor~~ or subcontractor, respectively, that the bidder, ~~or contractor~~ or subcontractor is not barred from being awarded a contract or subcontract under this Section and ~~that the contractor~~ acknowledges that the contracting State agency may declare the related contract void if any of the certifications certification completed pursuant to this subsection (c) are is false.

(Source: P.A. 93-575, eff. 1-1-04; 93-826, eff. 7-28-04.)

(30 ILCS 500/50-14.5)

Sec. 50-14.5. Lead Poisoning Prevention Act violations. Owners of residential buildings who have committed a willful or knowing violation of the Lead Poisoning Prevention Act are prohibited from doing business with the State of Illinois or any State agency, or subcontracting under this Code, until the violation is mitigated.

(Source: P.A. 94-879, eff. 6-20-06.)

(30 ILCS 500/50-20)

Sec. 50-20. Exemptions. ~~The~~ With the approval of the appropriate chief procurement officer ~~involved, the Governor, or an executive ethics board or commission he or she designates,~~ may file a request with the Executive Ethics Commission to exempt named individuals from the prohibitions of Section 50-13 when, in his or ; her, ~~or its~~ judgment, the public interest in having the individual in the service of the State outweighs the public policy evidenced in that Section. The Executive Ethics Commission may grant an exemption after a public hearing at which any person may present testimony. The chief procurement officer shall publish notice of the date, time, and location of the hearing in the online electronic Bulletin at least 14 days prior to the hearing and provide notice to the individual subject to the waiver and the Procurement Policy Board. The Executive Ethics Commission shall also provide public notice of the date, time, and location of the hearing on its website. If the Commission grants an exemption, the ~~An~~ exemption is effective only if when it is filed with the Secretary of State and the Comptroller prior to the execution of any contract and includes a statement 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 Illinois Procurement Bulletin. A contract for which a waiver has been issued but has not been filed in accordance with this Section is voidable by the State. The changes to this Section made by this amendatory Act of the 96th General Assembly shall apply to exemptions granted on or after its effective date.

(Source: P.A. 90-572, eff. 2-6-98.)

(30 ILCS 500/50-21 new)

Sec. 50-21. Bond issuances.

(a) A State agency shall not enter into a contract with respect to the issuance of bonds or other securities by the State or a State agency with any entity that uses an independent consultant.

As used in this subsection, "independent consultant" means a person used by the entity to obtain or retain securities business through direct or indirect communication by the person with a State official or employee on behalf of the entity when the communication is undertaken by the person in exchange for or with the understanding of receiving payment from the entity or another person. "Independent consultant" does not include (i) a finance professional employed by the entity or (ii) a person whose sole basis of compensation from the entity is the actual provision of legal, accounting, or engineering advice, services, or assistance in connection with the securities business that the entity seeks to obtain or retain.

(b) Prior to entering into a contract with a State agency with respect to the issuance of bonds or other securities by the State or a State agency, a contracting party subject to the Municipal Securities Rulemaking Board's Rule G-37, or a successor rule, shall include a certification that the contracting entity is and shall remain for the duration of the contract in compliance with the Rule's requirements for reporting political

contributions. Subsequent failure to remain in compliance shall make the contract voidable by the State.

(c) If a federal agency finds that an entity has knowingly violated in Illinois the Municipal Securities Rulemaking Board's Rule G-37 (or any successor rule) with respect to the making of prohibited political contributions or payments, then the chief procurement officer shall impose a penalty that is at least twice the fine assessed against that entity by the federal agency. The chief procurement officer shall also bar that entity from participating in any State agency contract with respect to the issuance of bonds or other securities for a period of one year. The one-year period shall begin upon the expiration of any debarment period imposed by a federal agency. If no debarment is imposed by a federal agency, then the one-year period shall begin on the date the chief procurement officer is advised of the violation.

If a federal agency finds that an entity has knowingly violated in Illinois the Municipal Securities Rulemaking Board's Rule G-38 (or any successor rule) with respect to the prohibition on obtaining or retaining municipal securities business, then the chief procurement officer shall bar that entity from participating in any State agency contract with respect to the issuance of bonds or other securities for a period of one year. The one-year period shall begin upon the expiration of any debarment period imposed by a federal agency. If no debarment is imposed by a federal agency, then the one-year period shall begin on the date the chief procurement officer is advised of the violation.

(d) Nothing in this Section shall be construed to apply retroactively, but shall apply prospectively on and after the effective date of this amendatory Act of the 96th General Assembly.

(30 ILCS 500/50-30)

Sec. 50-30. Revolving door prohibition.

(a) Chief procurement officers, ~~associate procurement officers~~, State purchasing officers, procurement compliance monitors, their designees whose principal duties are directly related to State procurement, and executive officers confirmed by the Senate are expressly prohibited for a period of 2 years after terminating an affected position from engaging in any procurement activity relating to the State agency most recently employing them in an affected position for a period of at least 6 months. The prohibition includes but is not limited to: lobbying the procurement process; specifying; bidding; proposing bid, proposal, or contract documents; on their own behalf or on behalf of any firm, partnership, association, or corporation. This subsection applies only to persons who terminate an affected position on or after January 15, 1999.

(b) In addition to any other provisions of this Code, employment of former State employees is subject to the State Officials and Employees Ethics Act.

(Source: P.A. 93-615, eff. 11-19-03.)

(30 ILCS 500/50-35)

Sec. 50-35. Financial disclosure ~~Disclosure~~ and potential conflicts of interest.

(a) All offers from responsive bidders or offerors with an annual value of more than \$10,000, and all subcontracts, copies of which must be provided by Section 20-120 of this Code, shall be accompanied by disclosure of the financial interests of the contractor, bidder, or proposer and each subcontractor to be used. The financial disclosure of each successful bidder or offeror and its subcontractors shall be incorporated as a material term of the contract and shall become part of the publicly available contract or procurement file maintained by the appropriate chief procurement officer. Each disclosure under this Section and Section 50-34 shall be signed and made under penalty of perjury by an authorized officer or employee on behalf of the bidder or offeror, and must be filed with the Procurement Policy Board.

(b) ~~Disclosure by the responsive bidders or offerors~~ shall include any ownership or distributive income share that is in excess of 5%, or an amount greater than 60% of the annual salary of the Governor, of the ~~disclosing bidding~~ entity or its parent entity, whichever is less, unless the contractor ~~or bidder~~ or subcontractor (i) is a publicly traded entity subject to Federal 10K reporting, in which case it may submit its 10K disclosure in place of the prescribed disclosure, or (ii) is a privately held entity that is exempt from Federal 10k reporting but has more than 400 shareholders, in which case it may submit the information that Federal 10k reporting companies are required to report under 17 CFR 229.401 and list the names of any person or entity holding any ownership share that is in excess of 5% in place of the prescribed disclosure. The form of disclosure shall be prescribed by the applicable chief procurement officer and must include at least the names, addresses, and dollar or proportionate share of ownership of each person identified in this Section, their instrument of ownership or beneficial relationship, and notice of any potential conflict of interest resulting from the current ownership or beneficial relationship of each person identified in this Section having in addition any of the following relationships:

- (1) State employment, currently or in the previous 3 years, including contractual employment of services.
- (2) State employment of spouse, father, mother, son, or daughter, including contractual

employment for services in the previous 2 years.

(3) Elective status; the holding of elective office of the State of Illinois, the government of the United States, any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois currently or in the previous 3 years.

(4) Relationship to anyone holding elective office currently or in the previous 2 years; spouse, father, mother, son, or daughter.

(5) Appointive office; the holding of any appointive government office of the State of Illinois, the United States of America, or any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois, which office entitles the holder to compensation in excess of expenses incurred in the discharge of that office currently or in the previous 3 years.

(6) Relationship to anyone holding appointive office currently or in the previous 2 years; spouse, father, mother, son, or daughter.

(7) Employment, currently or in the previous 3 years, as or by any registered lobbyist of the State government.

(8) Relationship to anyone who is or was a registered lobbyist in the previous 2 years; spouse, father, mother, son, or daughter.

(9) Compensated employment, currently or in the previous 3 years, by any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections.

(10) Relationship to anyone; spouse, father, mother, son, or daughter; who is or was a compensated employee in the last 2 years of any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections.

(b-1) The disclosure required under this Section must also include the name and address of each lobbyist and other agent of the bidder or offeror who is not identified under subsections (a) and (b) and who has communicated, is communicating, or may communicate with any State officer or employee concerning the bid or offer. The disclosure under this subsection is a continuing obligation and must be promptly supplemented for accuracy throughout the process and throughout the term of the contract if the bid or offer is successful.

(b-2) The disclosure required under this Section must also include, for each of the persons identified in subsection (b) or (b-1), each of the following that occurred within the previous 10 years: debarment from contracting with any governmental entity; professional licensure discipline; bankruptcies; adverse civil judgments and administrative findings; and criminal felony convictions. The disclosure under this subsection is a continuing obligation and must be promptly supplemented for accuracy throughout the process and throughout the term of the contract if the bid or offer is successful.

(c) The disclosure in subsection (b) is not intended to prohibit or prevent any contract. The disclosure is meant to fully and publicly disclose any potential conflict to the chief procurement officers, State purchasing officers, their designees, and executive officers so they may adequately discharge their duty to protect the State.

(d) When a potential for a conflict of interest is identified, discovered, or reasonably suspected, the chief procurement officer or State procurement officer shall send the contract to the Procurement Policy Board. The Board shall recommend, in writing, whether to allow or void the contract, bid, offer, or subcontract weighing the best interest of the State of Illinois. All recommendations shall be submitted to the chief procurement officer. The chief procurement officer must hold a public hearing if the Procurement Policy Board makes a recommendation to (i) void a contract or (ii) void a bid or offer and the chief procurement officer selected or intends to award the contract to the bidder or offeror. A chief procurement officer is prohibited from awarding a contract before a hearing if the Board recommendation does not support a bid or offer. The recommendation and proceedings of any hearing, if applicable, shall become part of the contract, bid, or proposal file and shall be available to the public.

~~(d) In the case of any contract for personal services in excess of \$50,000; any contract competitively bid in excess of \$250,000; any other contract in excess of \$50,000; when a potential for a conflict of interest is identified, discovered, or reasonably suspected it shall be reviewed and commented on in writing by the Governor of the State of Illinois, or by an executive ethics board or commission he or she might designate. The comment shall be returned to the responsible chief procurement officer who must rule in writing whether to void or allow the contract, bid, offer, or proposal weighing the best interest of the State of Illinois. The comment and determination shall become a publicly available part of the contract, bid, or~~

~~proposal file.~~

(e) These thresholds and disclosure do not relieve the chief procurement officer, the State purchasing officer, or their designees from reasonable care and diligence for any contract, bid, offer, or proposal. The chief procurement officer, the State purchasing officer, or their designees shall be responsible for using any reasonably known and publicly available information to discover any undisclosed potential conflict of interest and act to protect the best interest of the State of Illinois.

(f) Inadvertent or accidental failure to fully disclose shall render the contract, bid, proposal, subcontract, or relationship voidable by the chief procurement officer if he or she deems it in the best interest of the State of Illinois and, at his or her discretion, may be cause for barring from future contracts, bids, proposals, subcontracts, or relationships with the State for a period of up to 2 years.

(g) Intentional, willful, or material failure to disclose shall render the contract, bid, proposal, subcontract, or relationship voidable by the chief procurement officer if he or she deems it in the best interest of the State of Illinois and shall result in debarment from future contracts, bids, proposals, subcontracts, or relationships for a period of not less than 2 years and not more than 10 years. Reinstatement after 2 years and before 10 years must be reviewed and commented on in writing by the Governor of the State of Illinois, or by an executive ethics board or commission he or she might designate. The comment shall be returned to the responsible chief procurement officer who must rule in writing whether and when to reinstate.

(h) In addition, all disclosures shall note any other current or pending contracts, proposals, subcontracts, leases, or other ongoing procurement relationships the bidding, proposing, ~~or~~ offering, or subcontracting entity has with any other unit of State government and shall clearly identify the unit and the contract, proposal, lease, or other relationship.

(i) The contractor or bidder has a continuing obligation to supplement the disclosure required by this Section throughout the bidding process or during the term of any contract.

(Source: P.A. 95-331, eff. 8-21-07.)

(30 ILCS 500/50-37)

Sec. 50-37. Prohibition of political contributions.

(a) As used in this Section:

The terms "contract", "State contract", and "contract with a State agency" each mean any contract, as defined in this Code, between a business entity and a State agency let or awarded pursuant to this Code. The terms "contract", "State contract", and "contract with a State agency" do not include cost reimbursement contracts; purchase of care agreements as defined in Section 1-15.68 of this Code; contracts for projects eligible for full or partial federal-aid funding reimbursements authorized by the Federal Highway Administration; grants, including but are not limited to grants for job training or transportation; and grants, loans, or tax credit agreements for economic development purposes.

"Contribution" means a contribution as defined in Section 9-1.4 of the Election Code.

"Declared candidate" means a person who has filed a statement of candidacy and petition for nomination or election in the principal office of the State Board of Elections.

"State agency" means and includes all boards, commissions, agencies, institutions, authorities, and bodies politic and corporate of the State, created by or in accordance with the Illinois Constitution or State statute, of the executive branch of State government and does include colleges, universities, public employee retirement systems, and institutions under the jurisdiction of the governing boards of the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governors State University, Northeastern Illinois University, and the Illinois Board of Higher Education.

"Officeholder" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, or Treasurer. The Governor shall be considered the officeholder responsible for awarding all contracts by all officers and employees of, and vendors and others doing business with, executive branch State agencies under the jurisdiction of the Executive Ethics Commission and not within the jurisdiction of the Attorney General, the Secretary of State, the Comptroller, or the Treasurer.

"Sponsoring entity" means a sponsoring entity as defined in Section 9-3 of the Election Code.

"Affiliated person" means (i) any person with any ownership interest or distributive share of the bidding or contracting business entity in excess of 7.5%, (ii) executive employees of the bidding or contracting business entity, and (iii) the spouse ~~and minor children~~ of any such persons.

"Affiliated entity" means (i) any corporate parent and each operating subsidiary of the bidding or contracting business

entity, (ii) each operating subsidiary of the corporate parent of the bidding or contracting business entity any member of the same unitary business group, (iii) any organization recognized by the United States Internal Revenue Service as a tax-exempt organization described in Section 501(c) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law) established by the bidding or contracting business entity, any affiliated entity of that business entity, or any affiliated person of that business entity, or (iv) any political committee for which the bidding or contracting business entity, or any 501(c) organization described in item (iii) related to that business entity, is the sponsoring entity.

"Business entity" means any entity doing business for profit, whether organized as a corporation, partnership, sole proprietorship, limited liability company or partnership, or otherwise.

"Executive employee" means (i) the President, Chairman, or Chief Executive Officer of a business entity and any other individual that fulfills equivalent duties as the President, Chairman of the Board, or Chief Executive Officer of a business entity; and (ii) any employee of a business entity whose compensation is determined directly, in whole or in part, by the award or payment of contracts by a State agency to the entity employing the employee. A regular salary that is paid irrespective of the award or payment of a contract with a State agency shall not constitute "compensation" under item (ii) of this definition, ~~or other employee with executive decision making authority over the long term and day to day affairs of the entity employing the employee, or an employee whose compensation is determined directly, in whole or in part, by the award or payment of contracts by a State agency to the entity employing the employee.~~

(b) Any business entity whose contracts with State agencies, in the aggregate, annually total more than \$50,000, and any affiliated entities or affiliated persons of such business entity, are prohibited from making any contributions to any political committees established to promote the candidacy of (i) the officeholder responsible for awarding the contracts or (ii) any other declared candidate for that office. This prohibition shall be effective for the duration of the term of office of the incumbent officeholder awarding the contracts or for a period of 2 years following the expiration or termination of the contracts, whichever is longer.

(c) Any business entity whose aggregate pending bids and proposals on State contracts total more than \$50,000, or whose aggregate pending bids and proposals on State contracts combined with the business entity's aggregate annual total value of State contracts exceed \$50,000, and any affiliated entities or affiliated persons of such business entity, are prohibited from making any contributions to any political committee established to promote the candidacy of the officeholder responsible for awarding the contract on which the business entity has submitted a bid or proposal during the period beginning on the date the invitation for bids or request for proposals is issued and ending on the day after the date the contract is awarded.

(d) All contracts between State agencies and a business entity that violate subsection (b) or (c) shall be voidable under Section 50-60. If a business entity violates subsection (b) 3 or more times within a 36-month period, then all contracts between State agencies and that business entity shall be void, and that business entity shall not bid or respond to any invitation to bid or request for proposals from any State agency or otherwise enter into any contract with any State agency for 3 years from the date of the last violation. A notice of each violation and the penalty imposed shall be published in both the Procurement Bulletin and the Illinois Register.

(e) Any political committee that has received a contribution in violation of subsection (b) or (c) shall pay an amount equal to the value of the contribution to the State no more than 30 days after notice of the violation concerning the contribution appears in the Illinois Register. Payments received by the State pursuant to this subsection shall be deposited into the general revenue fund.

(Source: P.A. 95-971, eff. 1-1-09; 95-1038, eff. 3-11-09.)

(30 ILCS 500/50-38 new)

Sec. 50-38. Lobbying restrictions.

(a) A person or business that is let or awarded a contract is not entitled to receive any payment, compensation, or other remuneration from the State to compensate the person or business for any expenses related to travel, lodging, or meals that are paid by the person or business to any officer, agent, employee, consultant, independent contractor, director, partner, manager, or shareholder.

(b) Any bidder or offeror on a State contract that hires a person required to register under the Lobbyist Registration Act to assist in obtaining a contract shall (i) disclose all costs, fees, compensation, reimbursements, and other remunerations paid or to be paid to the lobbyist related to the contract, (ii) not bill or otherwise cause the State of Illinois to pay for any of the lobbyist's costs, fees, compensation, reimbursements, or other remuneration, and (iii) sign a verification certifying that none of the lobbyist's

costs, fees, compensation, reimbursements, or other remuneration were billed to the State. This information, along with all supporting documents, shall be filed with the agency awarding the contract and with the Secretary of State. The chief procurement officer shall post this information, together with the contract award notice, in the online Procurement Bulletin.

(c) Ban on contingency fee. No person or entity shall retain a person or entity to attempt to influence the outcome of a procurement decision made under this Code for compensation contingent in whole or in part upon the decision or procurement. Any person who violates this subsection is guilty of a business offense and shall be fined not more than \$10,000.

(30 ILCS 500/50-39 new)

Sec. 50-39. Procurement communications reporting requirement.

(a) Any written or oral communication received by a State employee that imparts or requests material information or makes a material argument regarding potential action concerning a procurement matter, including, but not limited to, an application, a contract, or a project, shall be reported to the Procurement Policy Board.

(b) The report required by subsection (a) shall be submitted monthly and include at least the following: (i) the date and time of each communication; (ii) the identity of each person from whom the written or oral communication was received, the individual or entity represented by that person, and any action the person requested or recommended; (iii) the identity and job title of the person to whom each communication was made; (iv) if a response is made, the identity and job title of the person making each response; (v) a detailed summary of the points made by each person involved in the communication; (vi) the duration of the communication; (vii) the location or locations of all persons involved in the communication and, if the communication occurred by telephone, the telephone numbers for the callers and recipients of the communication; and (viii) any other pertinent information.

(c) Additionally, when an oral communication made by a person required to register under the Lobbyist Registration Act is received by a State employee that is covered under this Section, all individuals who initiate or participate in the oral communication shall submit a written report to that State employee that memorializes the communication and includes, but is not limited to, the items listed in subsection (b).

(d) The Procurement Policy Board shall make each report submitted pursuant to this Section available on its website within 7 days after its receipt of the report. The Procurement Policy Board may promulgate rules to ensure compliance with this Section.

(e) An employee who knowingly and intentionally violates this Section shall be subject to suspension or discharge.

(30 ILCS 500/50-60)

Sec. 50-60. Voidable contracts.

(a) If any contract or amendment thereto is entered into or purchase or expenditure of funds is made at any time in violation of this Code or any other law, the contract or amendment thereto may be declared void by the chief procurement officer or may be ratified and affirmed, provided the chief procurement officer determines that ratification is in the best interests of the State. If the contract is ratified and affirmed, it shall be without prejudice to the State's rights to any appropriate damages.

(b) If, during the term of a contract, the chief procurement officer ~~contracting agency~~ determines that the contractor is delinquent in the payment of debt as set forth in Section 50-11 of this Code, the chief procurement officer ~~State agency~~ may declare the contract void if it determines that voiding the contract is in the best interests of the State. The Debt Collection Board shall adopt rules for the implementation of this subsection (b).

(c) If, during the term of a contract, the chief procurement officer ~~contracting agency~~ determines that the contractor is in violation of Section 50-10.5 of this Code, the chief procurement officer ~~contracting agency~~ shall declare the contract void.

(d) If, during the term of a contract, the contracting agency learns from an annual certification or otherwise determines that the contractor no longer qualifies to enter into State contracts by reason of Section 50-5, 50-10, 50-12, 50-14, or 50-14.5 of this Article, the chief procurement officer may declare the contract void if it determines that voiding the contract is in the best interests of the State.

(e) If, during the term of a contract, the chief procurement officer learns from an annual certification or otherwise determines that a subcontractor subject to Section 20-120 no longer qualifies to enter into State contracts by reason of Section 50-5, 50-10, 50-10.5, 50-11, 50-12, 50-14, or 50-14.5 of this Article, the chief procurement officer may declare the related contract void if it determines that voiding the contract is in the best interests of the State.

(f) The changes to this Section made by this amendatory Act of the 96th General Assembly apply to

actions taken by the chief procurement officer on or after its effective date.

(Source: P.A. 92-404, eff. 7-1-02; 93-600, eff. 1-1-04.)

(30 ILCS 500/50-65)

Sec. 50-65. ~~Suspension Contractor suspension.~~ Any contractor or subcontractor may be suspended for violation of this Code or for failure to conform to specifications or terms of delivery. Suspension shall be for cause and may be for a period of up to 10 years at the discretion of the applicable chief procurement officer. Contractors or subcontractors may be debarred in accordance with rules promulgated by the chief procurement officer or as otherwise provided by law.

(Source: P.A. 93-77, eff. 7-2-03.)

(30 ILCS 500/50-70)

Sec. 50-70. Additional provisions. This Code is subject to applicable provisions of the following Acts:

- (1) Article 33E of the Criminal Code of 1961;
- (2) the Illinois Human Rights Act;
- (3) the Discriminatory Club Act;
- (4) the Illinois Governmental Ethics Act;
- (5) the State Prompt Payment Act;
- (6) the Public Officer Prohibited Activities Act;
- (7) the Drug Free Workplace Act;
- (8) the Illinois Power Agency Act; ~~and~~
- (9) the Employee Classification Act; ~~and~~ -
- (10) the State Officials and Employees Ethics Act.

(Source: P.A. 95-26, eff. 1-1-08; 95-481, eff. 8-28-07; 95-876, eff. 8-21-08.)

(30 ILCS 500/53-10)

Sec. 53-10. Concessions and leases of State property.

(a) Except for property under the jurisdiction of a public institution of higher education, concessions, including the assignment, license, sale, or transfer of interests in or rights to discoveries, inventions, patents, or copyrightable works, may be entered into by the State agency with jurisdiction over the property, whether tangible or intangible.

(b) Except for property under the jurisdiction of a public institution of higher education, all leases of State property and concessions shall be reduced to writing and shall be awarded under the provisions of Article 20, except that the contract shall be awarded to the highest and best bidder or offeror.

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/1-15.03 rep.)

Section 95-36. The Illinois Procurement Code is amended by repealing Section 1-15.03.

Section 95-38. The Business Enterprise for Minorities, Females, and Persons with Disabilities Act is amended by changing Sections 2 and 4 as follows:

(30 ILCS 575/2) (from Ch. 127, par. 132.602)

(Section scheduled to be repealed on June 30, 2010)

Sec. 2. Definitions.

(A) For the purpose of this Act, the following terms shall have the following definitions:

(1) "Minority person" shall mean a person who is a citizen or lawful permanent resident of the United States and who is:

- (a) African American (a person having origins in any of the black racial groups in Africa);
- (b) Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race);
- (c) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands); or
- (d) Native American or Alaskan Native (a person having origins in any of the original peoples of North America).

(2) "Female" shall mean a person who is a citizen or lawful permanent resident of the United States and who is of the female gender.

(2.05) "Person with a disability" means a person who is a citizen or lawful resident of the United States and is a person qualifying as being disabled under subdivision (2.1) of this subsection (A).

(2.1) "Disabled" means a severe physical or mental disability that:

(a) results from:

amputation,

arthritis,
autism,
blindness,
burn injury,
cancer,
cerebral palsy,
cystic fibrosis,
deafness,
head injury,
heart disease,
hemiplegia,
hemophilia,
respiratory or pulmonary dysfunction,
mental retardation,
mental illness,
multiple sclerosis,
muscular dystrophy,
musculoskeletal disorders,
neurological disorders, including stroke and epilepsy,
paraplegia,
quadriplegia and other spinal cord conditions,
sickle cell anemia,
specific learning disabilities, or
end stage renal failure disease; and

(b) substantially limits one or more of the person's major life activities.

Another disability or combination of disabilities may also be considered as a severe disability for the purposes of item (a) of this subdivision (2.1) if it is determined by an evaluation of rehabilitation potential to cause a comparable degree of substantial functional limitation similar to the specific list of disabilities listed in item (a) of this subdivision (2.1).

(3) "Minority owned business" means a business concern which is at least 51% owned by one or more minority persons, or in the case of a corporation, at least 51% of the stock in which is owned by one or more minority persons; and the management and daily business operations of which are controlled by one or more of the minority individuals who own it.

(4) "Female owned business" means a business concern which is at least 51% owned by one or more females, or, in the case of a corporation, at least 51% of the stock in which is owned by one or more females; and the management and daily business operations of which are controlled by one or more of the females who own it.

(4.1) "Business owned by a person with a disability" means a business concern that is at least 51% owned by one or more persons with a disability and the management and daily business operations of which are controlled by one or more of the persons with disabilities who own it. A not-for-profit agency for persons with disabilities that is exempt from taxation under Section 501 of the Internal Revenue Code of 1986 is also considered a "business owned by a person with a disability".

(4.2) "Council" means the Business Enterprise Council for Minorities, Females, and Persons with Disabilities created under Section 5 of this Act.

(5) "State contracts" shall mean all State contracts, funded exclusively with State funds which are not subject to federal reimbursement, whether competitively bid or negotiated as defined by the Secretary of the Council and approved by the Council.

"State construction contracts" means all State contracts entered into by a State agency or State university for the repair, remodeling, renovation or construction of a building or structure, or for the construction or maintenance of a highway defined in Article 2 of the Illinois Highway Code.

(6) "State agencies" shall mean all departments, officers, boards, commissions, institutions and bodies politic and corporate of the State, but does not include the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, municipalities or other local governmental units, or other State constitutional officers.

(7) "State universities" shall mean the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, and the Board of Trustees of Western Illinois University.

(8) "Certification" means a determination made by the Council or by one delegated authority from the Council to make certifications, or by a State agency with statutory authority to make such a certification, that a business entity is a business owned by a minority, female, or person with a disability for whatever purpose. A business owned and controlled by females shall select and designate whether such business is to be certified as a "Female-owned business" or "Minority-owned business" if the females are also minorities.

(9) "Control" means the exclusive or ultimate and sole control of the business including, but not limited to, capital investment and all other financial matters, property, acquisitions, contract negotiations, legal matters, officer-director-employee selection and comprehensive hiring, operating responsibilities, cost-control matters, income and dividend matters, financial transactions and rights of other shareholders or joint partners. Control shall be real, substantial and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular business and control shall not include simple majority or absentee ownership.

(10) "Business concern or business" means a business that has ~~average~~ annual gross sales of less than \$75,000,000 over the 3 most recent calendar years of less than \$31,400,000 as evidenced by the federal income tax return of the business. A firm with gross sales in excess of this cap may apply to the Council for certification for a particular contract if the firm can demonstrate that the contract would have significant impact on businesses owned by minorities, females, or persons with disabilities as suppliers or subcontractors or in employment of minorities, females, or persons with disabilities.

(B) When a business concern is owned at least 51% by any combination of minority persons, females, or persons with disabilities, even though none of the 3 classes alone holds at least a 51% interest, the ownership requirement for purposes of this Act is considered to be met. The certification category for the business is that of the class holding the largest ownership interest in the business. If 2 or more classes have equal ownership interests, the certification category shall be determined by the business concern Department of Central Management Services.

(Source: P.A. 95-344, eff. 8-21-07.)

(30 ILCS 575/4) (from Ch. 127, par. 132.604)

(Section scheduled to be repealed on June 30, 2010)

Sec. 4. Award of State contracts.

(a) Except as provided in subsections (b) and (c), not less than 20% ~~12%~~ of the total dollar amount of State contracts, as defined by the Secretary of the Council and approved by the Council, shall be established as a goal to be awarded to businesses owned by minorities, females, and persons with disabilities; provided, however, that ~~contracts representing at least five twelfths~~ of the total amount of all State contracts awarded to businesses owned by minorities, females, and persons with disabilities pursuant to this Section , contracts representing at least 11% shall be awarded to businesses owned by minorities, contracts representing at least 7% shall be awarded to female-owned businesses, and contracts representing at least 2% shall be awarded to businesses owned by persons with disabilities ~~shall be awarded to female owned businesses, and that contracts representing at least one sixth of the total amount of all State contracts awarded to businesses owned by minorities, females, and persons with disabilities pursuant to this Section shall be awarded to businesses owned by persons with disabilities.~~

The above percentage relates to the total dollar amount of State contracts during each State fiscal year, calculated by examining independently each type of contract for each agency or university which lets such contracts. Only that percentage of arrangements which represents the participation of businesses owned by minorities, females, and persons with disabilities on such contracts shall be included.

(b) In the case of State construction contracts, the provisions of subsection (a) requiring a portion of State contracts to be awarded to businesses owned and controlled by persons with disabilities do not apply. Not less than 10% of the total dollar amount of State construction contracts is established as a goal to be awarded to minority and female owned businesses, and contracts representing 50% of the amount of all State construction contracts awarded to minority and female owned businesses shall be awarded to female owned businesses.

(c) In the case of all work undertaken by the University of Illinois related to the planning, organization,

and staging of the games, the University of Illinois shall establish a goal of awarding not less than 25% of the annual dollar value of all contracts, purchase orders, and other agreements (collectively referred to as "the contracts") to minority-owned businesses or businesses owned by a person with a disability and 5% of the annual dollar value the contracts to female-owned businesses. For purposes of this subsection, the term "games" has the meaning set forth in the Olympic Games and Paralympic Games (2016) Law.

~~(d) (e)~~ Within one year after April 28, 2009 (the effective date of Public Act 96-8) ~~this amendatory Act of the 96th General Assembly~~, the Department of Central Management Services shall conduct a social scientific study that measures the impact of discrimination on minority and female business development in Illinois. Within 18 months after April 28, 2009 (the effective date of Public Act 96-8) ~~this amendatory Act~~, the Department shall issue a report of its findings and any recommendations on whether to adjust the goals for minority and female participation established in this Act. Copies of this report and the social scientific study shall be filed with the Governor and the General Assembly.

(Source: P.A. 96-7, eff. 4-3-09; 96-8, eff. 4-28-09; revised 4-30-09.)

Section 95-40. The Illinois Grant Funds Recovery Act is amended by changing Section 4 and by adding Section 4.1 as follows:

(30 ILCS 705/4) (from Ch. 127, par. 2304)

Sec. 4. Grant Application and Agreement Requirements Requirement.

(a) Any person or organization, public or private, desiring to receive grant funds must submit a grant application to the appropriate grantor agency. Applications for grant funds shall be made on prescribed forms developed by the grantor agency, and shall include, without being limited to, the following provisions:

(1) the name, address, chief officers, and general description of the applicant;

(2) a general description of the program, project, or use for which grant funding is requested;

(3) such plans, equipment lists, and other documents as may be required to show the type, structure, and general character of the program, project, or use for which grant funding is requested;

(4) cost estimates of developing, constructing, operating, or completing the program, project, or use for which grant funding is requested; and

(5) a program of proposed expenditures for the grant funds.

(b) Grant funds may not be used except pursuant to a written grant agreement, and any disbursement of grant funds without a grant agreement is void. At a minimum, a grant agreement must:

(1) ~~(a)~~ describe the purpose of the grant and be signed by the grantor agency making the grant and all grantees of the grant;

(2) ~~(b)~~ specify how payments shall be made, what constitutes permissible expenditure of the grant funds, and the financial controls applicable to the grant, including, for those grants in excess of \$25,000, the filing of quarterly reports describing the progress of the program, project, or use and the expenditure of the grant funds related thereto;

(3) ~~(c)~~ specify the period of time for which the grant is valid and, subject to the limitation of Section 5, the period of time during which grant funds may be expended by the grantee; ~~and~~

(4) contain a provision that any grantees receiving grant funds are required to permit the grantor agency, the Auditor General, or the Attorney General to inspect and audit any books, records, or papers related to the program, project, or use for which grant funds were provided;

(5) ~~(d)~~ contain a provision that all funds remaining at the end of the grant agreement or at the expiration of the period of time grant funds are available for expenditure or obligation by the grantee shall be returned to the State within 45 days; and

(6) contain a provision in which the grantee certifies under oath that all information in the grant agreement is true and correct to the best of the grantee's knowledge, information, and belief; that the funds shall be used only for the purposes described in the grant agreement; and that the award of grant funds is conditioned upon such certification.

(Source: P.A. 83-640.)

(30 ILCS 705/4.1 new)

Sec. 4.1. Grant Fund Distribution Suspension. Grantor agencies may withhold or suspend the distribution of grant funds for failure to file required reports.

ARTICLE 99

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

AMENDMENT NO. 2. Amend Senate Bill 51, AS AMENDED, with reference to page and line

numbers of House Amendment No. 1, by replacing line 21 on page 49 through line 11 on page 50 with the following:

"Sec. 10-25. Executive Procurement Officer. There is hereby created, under the supervision of the Office of the Governor, an Executive Procurement Office, headed by an Executive Procurement Officer, who shall be appointed by the Governor. The Executive Procurement Officer shall have the following powers and duties:

(1) To recommend policies and procedures to ensure consistency between the chief procurement officers and their staffs, provided that each chief procurement officer shall have final and exclusive authority over particular procurement decisions.

(2) To assist chief procurement officers in the development of and revision of policies that decisions on procurement related matters remain free from political or other inappropriate extrinsic influence.

(3) To provide guidance to all chief procurement officers and their staffs on how to ensure that all State procurement is conducted in a manner that is appropriately responsive to and sensitive to the needs of vendors and the business community in general through the development of technologically-sophisticated, efficient, and innovative methodologies for managing procurement processes.

(4) Respecting the authority of the chief procurement officers over procurement in their respective areas, to assist with the implementation of policies mandated through statute or executive order that promote diversity among State contractors, including, but not limited to, the implementation of the Business Enterprise and Disadvantaged Business Enterprise Program.

The Executive"; and

on page 51, in line 20, by inserting "business" after "10"; and
on page 52, in line 20, by inserting "business" after "10".

The foregoing motion prevailed and the amendments were adopted.

There being no further amendment(s), the bill, as amended, was again advanced to the order of Third Reading.

SENATE BILLS ON THIRD READING

The following bill and any amendments adopted thereto were reproduced. Any amendments still pending upon the passage or defeat of a bill on Third Reading are automatically tabled pursuant to Rule 40(a).

On motion of Representative Madigan, SENATE BILL 51 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: 118, Yeas; 0, Nays; 0, Answering Present.

(ROLL CALL 2)

This bill, as amended, having received the votes of a constitutional majority of the Members elected, was declared passed.

Ordered that the Clerk inform the Senate and ask their concurrence in the House amendment/s adopted.

On motion of Representative Madigan, SENATE BILL 54 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: 118, Yeas; 0, Nays; 0, Answering Present.

(ROLL CALL 3)

This bill, as amended, having received the votes of a constitutional majority of the Members elected, was declared passed.

Ordered that the Clerk inform the Senate and ask their concurrence in the House amendment/s adopted.

RECALL

At the request of the principal sponsor, Representative Madigan, SENATE BILL 1333 was recalled from the order of Third Reading to the order of Second Reading.

SENATE BILL ON SECOND READING

SENATE BILL 1333. Having been recalled on May 21, 2009, the same was again taken up. Representative Madigan offered the following amendments and moved their adoption.

AMENDMENT NO. 1. Amend Senate Bill 1333 by replacing everything after the enacting clause with the following:

"ARTICLE 5.

Section 5-1. Short title. This Article may be cited as the Officials and Employees Termination Act of 2009.

Section 5-5. In this Article:

"Designated official" means (i) each head, assistant head, and deputy head of an executive State agency who was nominated by the Governor between January 11, 1999 and January 29, 2009 for a position that requires the advice and consent of the Senate, (ii) each member of an executive board or commission who was nominated by the Governor between January 11, 1999 and January 29, 2009 for a position that requires the advice and consent of the Senate, and (iii) any other person who was nominated by the Governor between January 11, 1999 and January 29, 2009 for a position that requires the advice and consent of the Senate.

"Designated employee" means:

- (a) each employee of an executive State agency or executive board or commission:
 - (1) who occupies a *Rutan* exempt position; and
 - (2) who occupies a position that is also partially exempted from the Personnel Code pursuant to:
 - (A) Section 4(d)(1) (20 ILCS 415/4(d)(1)); or
 - (B) Section 4(d)(3) (20 ILCS 415/4(d)(3)); and
 - (3) whose employment in that position began between January 11, 1999 and January 29, 2009; or
- (b) each employee of an executive State agency or executive board or commission:
 - (1) who occupies a *Rutan* exempt position; and
 - (2) who occupies a non-Personnel Code position; and
 - (3) who is an at-will employee, not subject to any merit or fitness protections; and
- (4) whose employment in that position began between January 11, 1999 and January 29, 2009.

Specifically excluded from this definition is any employee covered by a collective bargaining agreement.

"Executive board or commission" means each executive branch board or commission created by law that is not under the jurisdiction and control of the Lieutenant Governor, Attorney General, Secretary of State, Treasurer, or Comptroller, but does not include the State Board of Elections.

"Executive State agency" means each executive branch department, agency, institution, authority, public institution of higher learning, and body politic and corporate of the State created by law that is not under the jurisdiction of the Lieutenant Governor, Attorney General, Secretary of State, Treasurer, or Comptroller, but does not include the State Board of Elections.

"*Rutan*" means the opinion of the United States Supreme Court in *Rutan v. Republican Party of Illinois*, 497 U.S. 62 (1990).

Section 5-10. Termination.

(a) Each designated official is terminated in office or employment, by operation of law, on the date that is 90 days after the effective date of this Article, and a vacancy then exists unless, within that 90-day period, the Governor files with the Secretary of State a written certification naming each designated official who is retained in his or her position. Retainage in a position by the Governor under this subsection does not constitute an appointment or reappointment and does not require the advice and consent of the Senate.

(b) The employment of each designated employee is terminated, by operation of law, on the date that is 90 days after the effective date of this Article unless, within that 90-day period, the Governor or the employing or appointing authority files with the Secretary of State a written certification naming each designated employee who is retained in employment.

(c) Nothing in this Article (i) prevents the Governor from subsequently making a temporary appointment or from subsequently nominating or employing a person terminated under subsection (a) or (b) or (ii) prevents an employing or appointing authority from subsequently employing or appointing a person terminated under subsection (a) or (b).

(d) The Executive Director of the Illinois Finance Authority, holding that position on May 1, 2009, is terminated, by operation of law, 30 days after the effective date of this Article and shall thereafter no longer hold that position or any other employment position with the Illinois Finance Authority.

(e) The Governor and all other responsible government entities are directed to take whatever action is necessary to effectuate these terminations.

Section 5-15. Finding. The General Assembly hereby finds and declares that the determination of employment status for positions within the executive branch is a prerogative of the Governor or other constitutional officer of the executive branch, as the case may be. The changes contained in this Act reflect the demands of a unique and unprecedented circumstance; accordingly, this Act shall in no way be construed as impairing or derogating in any way the Governor's supreme executive authority under Article V of the Illinois Constitution or the Governor's powers under the laws of the State of Illinois.

Section 5-20. Article controls. The provisions of this Article control over inconsistent provisions of any other law except Public Act 96-6.

ARTICLE 10.

Section 10-1. Short title. This Article may be cited as the Illinois Task Force on Personnel and Patronage Reform Law.

Section 10-5. Purpose. The mission of the Illinois Task Force on Personnel and Patronage Reform (the "Task Force") is to recommend to the Governor and the General Assembly a reform proposal for the Personnel Code that is guided by the following principles:

- (1) providing effective public service by qualified public servants, rather than rewarding well-connected or politically subservient persons with employment in fabricated or otherwise unnecessary positions; and
- (2) establishing and maintaining an independent and professional personnel system.

Section 10-10. Personnel Code and Patronage Abuses. The Task Force shall conduct an examination of the Personnel Code (the "Code") and hiring practices within the executive branch that, at a minimum, includes an examination of the following:

- (1) the number and scope of positions deemed to be *Rutan* exempt or totally or partially exempt from the Code;
- (2) the hiring of contractual employees, interns, and other temporary employees that are either totally exempt or partially exempt from the Code and whether these positions should remain totally or partially exempt from the Code;
- (3) the current criteria or method for determining whether an employee is *Rutan* exempt or totally or partially exempt under the Code;
- (4) the manner in which job descriptions are changed, the manner in which new positions are created, and whether these practices are susceptible to patronage abuses;
- (5) the practice and propriety of employees who are exempt from *Rutan* or the Personnel Code becoming parties to a collective bargaining agreement; and
- (6) ways to increase uniformity and promote fairness and political neutrality in the State's hiring process.

Section 10-20. Task Force members. The Task Force shall consist of the Chairman of the Illinois Civil Service Commission, or his or her designee, and the following appointed members:

- (1) One member appointed by the Governor, who shall be an attorney with a background in personnel law and one of whom shall serve as chair of the Task Force.
- (2) One member appointed by the Speaker of the House.
- (3) One member appointed by the Senate President.
- (4) One member appointed by the House Minority Leader.
- (5) One member appointed by the Senate Minority Leader.
- (6) One member, who must be a member of the Executive Ethics Commission, appointed by the Chairman of the Executive Ethics Commission.

Appointments to the Task Force shall be made within 30 days after the effective date of this Article. A quorum must be present to conduct all meetings and must consist of 4 members.

Section 10-25. Report. The Task Force shall submit a report to the Governor and the General Assembly with specific recommendations for reform no later than one year after the effective date of this Article.

Section 10-30. Meetings. The Task Force shall convene meetings in a frequency the members determine, but at a minimum shall meet quarterly. The Task Force shall adhere to the Open Meetings Act and the Freedom of Information Act.

Section 10-35. Costs. The Department of Central Management Services shall provide technical and administrative support to the Task Force. All members of the Task Force shall serve without compensation, except that expenses related to travel shall be provided for by the Department of Central Management Services.

ARTICLE 15.

Section 1000. The State Officials and Employees Ethics Act is amended by changing Sections 20-5 and 20-15 as follows:

(5 ILCS 430/20-5)

Sec. 20-5. Executive Ethics Commission.

(a) The Executive Ethics Commission is created.

(b) The Executive Ethics Commission shall consist of 9 commissioners. The Governor shall appoint 5 commissioners, and the Attorney General, Secretary of State, Comptroller, and Treasurer shall each appoint one commissioner. Appointments shall be made by and with the advice and consent of the Senate by three-fifths of the elected members concurring by record vote. Any nomination not acted upon by the Senate within 60 session days of the receipt thereof shall be deemed to have received the advice and consent of the Senate. If, during a recess of the Senate, there is a vacancy in an office of commissioner, the appointing authority shall make a temporary appointment until the next meeting of the Senate when the appointing authority shall make a nomination to fill that office. No person rejected for an office of commissioner shall, except by the Senate's request, be nominated again for that office at the same session of the Senate or be appointed to that office during a recess of that Senate. No more than 5 commissioners may be of the same political party.

~~The terms of the initial commissioners shall commence upon qualification. Four initial appointees of the Governor, as designated by the Governor, shall serve terms running through June 30, 2007. One initial appointee of the Governor, as designated by the Governor, and the initial appointees of the Attorney General, Secretary of State, Comptroller, and Treasurer shall serve terms running through June 30, 2008. The initial appointments shall be made within 60 days after the effective date of this Act.~~

After the initial terms, commissioners appointed by the Attorney General, Secretary of State, Comptroller, and Treasurer shall serve for 4-year terms commencing on July 1 of the year of appointment and running through June 30 of the fourth following year.

Notwithstanding the Officials and Employees Termination Act of 2009, the terms of all commissioners appointed by the Governor end on the effective date of this amendatory Act of the 96th General Assembly, and those commissioners may not hold over in office for more than 90 days after the effective date of this amendatory Act of the 96th General Assembly. The initial appointees of the Governor on or after the effective date of this amendatory Act of the 96th General Assembly shall serve terms as follows as designated by the Governor: one running through June 30, 2010; one running through June 30, 2011; one running through June 30, 2012; one running through June 30, 2013; and one running through June 30, 2014. After the initial terms, commissioners appointed by the Governor shall serve 5-year terms commencing on July 1 of the year of appointment and running through June 30 of the fifth following year. Nothing in this amendatory Act of the 96th General Assembly prevents the Governor from making a temporary appointment.

Commissioners may be reappointed to one or more subsequent terms.

Vacancies occurring other than at the end of a term shall be filled by the appointing authority only for the balance of the term of the commissioner whose office is vacant.

Terms shall run regardless of whether the position is filled.

(c) The appointing authorities shall appoint commissioners who have experience holding governmental office or employment and shall appoint commissioners from the general public. A person is not eligible to serve as a commissioner if that person (i) has been convicted of a felony or a crime of dishonesty or moral turpitude, (ii) is, or was within the preceding 12 months, engaged in activities that require registration under the Lobbyist Registration Act, (iii) is related to the appointing authority, or (iv) is a State officer or employee.

(d) The Executive Ethics Commission shall have jurisdiction over all officers and employees of State

agencies other than the General Assembly, the Senate, the House of Representatives, the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, the Senate Operations Commission, the legislative support services agencies, and the Office of the Auditor General. The jurisdiction of the Commission is limited to matters arising under this Act.

(e) The Executive Ethics Commission must meet, either in person or by other technological means, at least monthly and as often as necessary. At the first meeting of the Executive Ethics Commission, the commissioners shall choose from their number a chairperson and other officers that they deem appropriate. The terms of officers shall be for 2 years commencing July 1 and running through June 30 of the second following year. Meetings shall be held at the call of the chairperson or any 3 commissioners. Official action by the Commission shall require the affirmative vote of 5 commissioners, and a quorum shall consist of 5 commissioners. Commissioners shall receive compensation in an amount equal to the compensation of members of the State Board of Elections and may be reimbursed for their reasonable expenses actually incurred in the performance of their duties.

(f) No commissioner or employee of the Executive Ethics Commission may during his or her term of appointment or employment:

(1) become a candidate for any elective office;

(2) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;

(3) be actively involved in the affairs of any political party or political organization; or

(4) actively participate in any campaign for any elective office.

(g) An appointing authority may remove a commissioner only for cause.

(h) The Executive Ethics Commission shall appoint an Executive Director. The compensation of the Executive Director shall be as determined by the Commission or by the Compensation Review Board, whichever amount is higher. The Executive Director of the Executive Ethics Commission may employ and determine the compensation of staff, as appropriations permit.

(Source: P.A. 93-617, eff. 12-9-03.)

(5 ILCS 430/20-15)

Sec. 20-15. Duties of the Executive Ethics Commission. In addition to duties otherwise assigned by law, the Executive Ethics Commission shall have the following duties:

(1) To promulgate rules governing the performance of its duties and the exercise of its powers and governing the investigations of the Executive Inspectors General. It is declared to be in the public interest, safety, and welfare that the Commission adopt emergency rules under the Illinois Administrative Procedure Act to initially perform its duties under this subsection.

(2) To conduct administrative hearings and rule on matters brought before the Commission only upon the receipt of pleadings filed by an Executive Inspector General and not upon its own prerogative, but may appoint special Executive Inspectors General as provided in Section 20-21. Any other allegations of misconduct received by the Commission from a person other than an Executive Inspector General shall be referred to the Office of the appropriate Executive Inspector General.

(3) To prepare and publish manuals and guides and, working with the Office of the Attorney General, oversee training of employees under its jurisdiction that explains their duties.

(4) To prepare public information materials to facilitate compliance, implementation, and enforcement of this Act.

(5) To submit reports as required by this Act.

(6) To the extent authorized by this Act, to make rulings, issue recommendations, and impose administrative fines, if appropriate, in connection with the implementation and interpretation of this Act. The powers and duties of the Commission are limited to matters clearly within the purview of this Act.

(7) To issue subpoenas with respect to matters pending before the Commission, subject to the provisions of this Article and in the discretion of the Commission, to compel the attendance of witnesses for purposes of testimony and the production of documents and other items for inspection and copying.

(8) To appoint special Executive Inspectors General as provided in Section 20-21.

(9) To require State agencies under its jurisdiction to make available to the public for inspection and copying during normal business hours and post on its website a list of the name and position of all employees of the agency who are *Rutan* exempt and to indicate on that list which of those employees are also totally or partially exempt from the Personnel Code.

(10) To require State agencies under its jurisdiction to explain, in a written document, any deviation from established job qualifications in making a hiring decision, to identify by name the person responsible for the deviation, to place a copy of that document in each applicant's file, and to deliver a copy of that document to the Executive Ethics Commission.

(11) To require State agencies under its jurisdiction to explain, in a written document, any change in a job description and to deliver a copy of that document to the Executive Ethics Commission.

(Source: P.A. 93-617, eff. 12-9-03.)

Section 1012. The Civil Administrative Code of Illinois is amended by changing Section 5-175 as follows:

(20 ILCS 5/5-175) (was 20 ILCS 5/5.12)

Sec. 5-175. In the Department of Revenue. Assistant Director of Revenue; ~~and State Lottery Superintendent.~~

(Source: P.A. 91-239, eff. 1-1-00.)

Section 1015. The Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois is amended by changing Section 605-707 as follows:

(20 ILCS 605/605-707) (was 20 ILCS 605/46.6d)

Sec. 605-707. International Tourism Program.

(a) The Department of Commerce and Economic Opportunity must establish a program for international tourism. The Department shall develop and implement the program on January 1, 2000 by rule. As part of the program, the Department may work in cooperation with local convention and tourism bureaus in Illinois in the coordination of international tourism efforts at the State and local level. The Department may (i) work in cooperation with local convention and tourism bureaus for efficient use of their international tourism marketing resources, (ii) promote Illinois in international meetings and tourism markets, (iii) work with convention and tourism bureaus throughout the State to increase the number of international tourists to Illinois, (iv) provide training, research, technical support, and grants to certified convention and tourism bureaus, (v) provide staff, administration, and related support required to manage the programs under this Section, and (vi) provide grants for the development of or the enhancement of international tourism attractions.

(b) The Department shall make grants for expenses related to international tourism and pay for the staffing, administration, and related support from the International Tourism Fund, a special fund created in the State Treasury. Of the amounts deposited into the Fund in fiscal year 2000 after January 1, 2000, 55% shall be used for grants to convention and tourism bureaus in Chicago (other than the City of Chicago's Office of Tourism) and 45% shall be used for development of international tourism in areas outside of Chicago. Of the amounts deposited into the Fund in fiscal year 2001 and thereafter, 55% shall be used for grants to convention and tourism bureaus in Chicago, and of that amount not less than 27.5% shall be used for grants to convention and tourism bureaus in Chicago other than the City of Chicago's Office of Tourism, and 45% shall be used for administrative expenses and grants authorized under this Section and development of international tourism in areas outside of Chicago, of which not less than \$1,000,000 shall be used annually to make grants to convention and tourism bureaus in cities other than Chicago that demonstrate their international tourism appeal and request to develop or expand their international tourism marketing program, and may also be used to provide grants under item (vi) of subsection (a) of this Section. Amounts appropriated to the State Comptroller for administrative expenses ~~and grants authorized by the Illinois Global Partnership Act~~ are payable from the International Tourism Fund.

(c) A convention and tourism bureau is eligible to receive grant moneys under this Section if the bureau is certified to receive funds under Title 14 of the Illinois Administrative Code, Section 550.35. To be eligible for a grant, a convention and tourism bureau must provide matching funds equal to the grant amount. In certain circumstances as determined by the Director of Commerce and Economic Opportunity, however, the City of Chicago's Office of Tourism or any other convention and tourism bureau may provide matching funds equal to no less than 50% of the grant amount to be eligible to receive the grant. One-half of this 50% may be provided through in-kind contributions. Grants received by the City of Chicago's Office of Tourism and by convention and tourism bureaus in Chicago may be expended for the general purposes of promoting conventions and tourism.

(Source: P.A. 94-91, eff. 7-1-05.)

Section 1020. The Illinois Lottery Law is amended by changing Sections 3, 4, 5, 7.1, 7.6, 7.11, 9, 10, 10.1, 10.1a, 10.2, 10.6, 10.7, 12, 13, 14, 14.3, 19, and 21 and by adding Section 4.5 as follows:

(20 ILCS 1605/3) (from Ch. 120, par. 1153)

Sec. 3. For the purposes of this Act:

- a. "Lottery" or "State Lottery" means the lottery or lotteries established and operated pursuant to this Act.
- b. "Board" means the Lottery Control Board created by this Act.
- c. "Department" means the Department of the Lottery Revenue.
- d. "Director" means the Director of the Lottery Revenue.
- e. "Chairman" means the Chairman of the Lottery Control Board.
- f. "Multi-state game directors" means such persons, including the Director Superintendent, as may be designated by an agreement between the Department Division and one or more additional lotteries operated under the laws of another state or states.
- g. ~~(Blank). "Division" means the Division of the State Lottery of the Department of Revenue.~~
- h. ~~(Blank). "Superintendent" means the Superintendent of the Division of the State Lottery of the Department of Revenue.~~

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/4) (from Ch. 120, par. 1154)

Sec. 4. The Department of the Lottery is established to implement and regulate the State Lottery in the manner provided in this Act.

~~In accordance with Executive Order No. 9 (2003), the Division of the State Lottery is established within the Department of Revenue. Unless otherwise provided by law, the Division of the State Lottery shall be subject to and governed by all of the laws and rules applicable to the Department.~~

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/4.5 new)

Sec. 4.5. Separation from Department of Revenue. On the effective date of this amendatory Act of the 96th General Assembly, all of the powers, duties, assets, liabilities, employees, contracts, property, records, pending business, and unexpended appropriations of the Department of Revenue related to the administration and enforcement of this Act are transferred to the Department of the Lottery, except as specifically provided in this Act.

The status and rights of the transferred employees, and the rights of the State of Illinois and its agencies, under the Personnel Code and applicable collective bargaining agreements or under any pension, retirement, or annuity plan are not affected by that transfer or by any other provision of this amendatory Act of the 96th General Assembly.

This amendatory Act of the 96th General Assembly supersedes Executive Order 9 (2003).

(20 ILCS 1605/5) (from Ch. 120, par. 1155)

Sec. 5. The ~~Department Division~~ shall be under the supervision and direction of a Director Superintendent, who shall be a person qualified by training and experience to perform the duties required by this Act. The ~~Director Superintendent~~ shall be appointed by the Governor, by and with the advice and consent of the Senate. The term of office of the ~~Director Superintendent~~ shall expire on the third Monday of January in odd numbered years provided that he or she shall hold office until a successor is appointed and qualified.

Any vacancy occurring in the office of the ~~Director Superintendent~~ shall be filled in the same manner as the original appointment.

The ~~Director Superintendent~~ shall devote his or her entire time and attention to the duties of the office and shall not be engaged in any other profession or occupation. The ~~Director Superintendent~~ shall receive such salary as shall be provided by law.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/7.1) (from Ch. 120, par. 1157.1)

Sec. 7.1. The Department shall promulgate such rules and regulations governing the establishment and operation of a State lottery as it deems necessary to carry out the purposes of this Act. Such rules and regulations shall be subject to the provisions of The Illinois Administrative Procedure Act. The ~~Department Division~~ shall issue written game rules, play instructions, directives, operations manuals, brochures, or any other publications necessary to conduct specific games, as authorized by rule by the Department. Any written game rules, play instructions, directives, operations manuals, brochures, or other game publications issued by the ~~Department Division~~ that relate to a specific lottery game shall be maintained as a public record in the ~~Department's Division's~~ principal office, and made available for public inspection and copying but shall be exempt from the rulemaking procedures of the Illinois Administrative Procedure Act. However, when such written materials contain any policy of general applicability, the ~~Department Division~~ shall formulate and adopt such policy as a rule in accordance with the provisions of the Illinois Administrative Procedure Act. In addition, the ~~Department Division~~ shall publish each January in the Illinois Register a list of all game-specific rules, play instructions, directives, operations manuals,

brochures, or other game-specific publications issued by the ~~Department Division~~ during the previous year and instructions concerning how the public may obtain copies of these materials from the Division.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/7.6) (from Ch. 120, par. 1157.6)

Sec. 7.6. The Board shall advise and make recommendations to ~~the Superintendent or~~ the Director regarding the functions and operations of the State Lottery. A copy of all such recommendations shall also be forwarded to the Governor, the Attorney General, the Speaker of the House, the President of the Senate and the minority leaders of both houses.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/7.11) (from Ch. 120, par. 1157.11)

Sec. 7.11. The ~~Department Division~~ may establish and collect nominal charges for promotional products ("premiums") and other promotional materials produced or acquired by the ~~Department Division~~ as part of its advertising and promotion activities. Such premiums or other promotional materials may be sold to individuals, government agencies and not-for-profit organizations, but not to for-profit enterprises for the purpose of resale. Other State agencies shall be charged no more than the cost to the ~~Department Division~~ of the premium or promotional material. All proceeds from the sale of premiums or promotional materials shall be deposited in the State Lottery Fund in the State Treasury.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/9) (from Ch. 120, par. 1159)

Sec. 9. The ~~Director Superintendent~~, as administrative head of the ~~Department Division~~, shall direct and supervise all its administrative and technical activities ~~and shall report to the Director~~. In addition to the duties imposed upon him elsewhere in this Act, it shall be the ~~Director's Superintendent's~~ duty:

a. To supervise and administer the operation of the lottery in accordance with the provisions of this Act or such rules and regulations of the Department adopted thereunder.

b. To attend meetings of the Board or to appoint a designee to attend in his stead.

c. To employ and direct such personnel in accord with the Personnel Code, as may be necessary to carry out the purposes of this Act. The ~~Director Superintendent~~ may, ~~subject to the approval of the Director~~, use the services, personnel, or facilities of the Department. In addition, the ~~Director Superintendent~~ may by agreement secure such services as he or she may deem necessary from any other department, agency, or unit of the State government, and may employ and compensate such consultants and technical assistants as may be required and is otherwise permitted by law.

d. To license, in accordance with the provisions of Sections 10 and 10.1 of this Act and the rules and regulations of the Department adopted thereunder, as agents to sell lottery tickets such persons as in his opinion will best serve the public convenience and promote the sale of tickets or shares. The ~~Director Superintendent~~ may require a bond from every licensed agent, in such amount as provided in the rules and regulations of the Department. Every licensed agent shall prominently display his license, or a copy thereof, as provided in the rules and regulations of the Department.

e. To suspend or revoke any license issued pursuant to this Act or the rules and regulations promulgated by the Department thereunder.

f. To confer regularly as necessary or desirable and not less than once every month with the Lottery Control Board on the operation and administration of the Lottery; to make available for inspection by the Board or any member of the Board, upon request, all books, records, files, and other information and documents of his office; to advise the Board and recommend such rules and regulations and such other matters as he deems necessary and advisable to improve the operation and administration of the lottery.

g. To enter into contracts for the operation of the lottery, or any part thereof, and into contracts for the promotion of the lottery on behalf of the Department with any person, firm or corporation, to perform any of the functions provided for in this Act or the rules and regulations promulgated thereunder. The Department shall not expend State funds on a contractual basis for such functions unless those functions and expenditures are expressly authorized by the General Assembly.

h. To enter into an agreement or agreements with the management of state lotteries operated pursuant to the laws of other states for the purpose of creating and operating a multi-state lottery game wherein a separate and distinct prize pool would be combined to award larger prizes to the public than could be offered by the several state lotteries, individually. No tickets or shares offered in connection with a multi-state lottery game shall be sold within the State of Illinois, except those offered by and through the Department. No such agreement shall purport to pledge the full faith and credit of the State of Illinois, nor shall the Department expend State funds on a contractual basis in connection with any such game unless such expenditures are expressly authorized by the General Assembly, provided, however, that in the event

of error or omission by the Illinois State Lottery in the conduct of the game, as determined by the multi-state game directors, the Department shall be authorized to pay a prize winner or winners the lesser of a disputed prize or \$1,000,000, any such payment to be made solely from funds appropriated for game prize purposes. The Department shall be authorized to share in the ordinary operating expenses of any such multi-state lottery game, from funds appropriated by the General Assembly, and in the event the multi-state game control offices are physically located within the State of Illinois, the Department is authorized to advance start-up operating costs not to exceed \$150,000, subject to proportionate reimbursement of such costs by the other participating state lotteries. The Department shall be authorized to share proportionately in the costs of establishing a liability reserve fund from funds appropriated by the General Assembly. The Department is authorized to transfer prize award funds attributable to Illinois sales of multi-state lottery game tickets to the multi-state control office, or its designated depository, for deposit to such game pool account or accounts as may be established by the multi-state game directors, the records of which account or accounts shall be available at all times for inspection in an audit by the Auditor General of Illinois and any other auditors pursuant to the laws of the State of Illinois. No multi-state game prize awarded to a nonresident of Illinois, with respect to a ticket or share purchased in a state other than the State of Illinois, shall be deemed to be a prize awarded under this Act for the purpose of taxation under the Illinois Income Tax Act. All of the net revenues accruing from the sale of multi-state lottery tickets or shares shall be transferred into the Common School Fund pursuant to Section 7.2. The Department shall promulgate such rules as may be appropriate to implement the provisions of this Section.

i. To make a continuous study and investigation of (1) the operation and the administration of similar laws which may be in effect in other states or countries, (2) any literature on the subject which from time to time may be published or available, (3) any Federal laws which may affect the operation of the lottery, and (4) the reaction of Illinois citizens to existing and potential features of the lottery with a view to recommending or effecting changes that will tend to serve the purposes of this Act.

j. To report monthly to the State Treasurer and the Lottery Control Board a full and complete statement of lottery revenues, prize disbursements and other expenses for each month and the amounts to be transferred to the Common School Fund pursuant to Section 7.2 or such other funds as are otherwise authorized by Section 21.2 of this Act, and to make an annual report, which shall include a full and complete statement of lottery revenues, prize disbursements and other expenses, to the Governor and the Board. All reports required by this subsection shall be public and copies of all such reports shall be sent to the Speaker of the House, the President of the Senate, and the minority leaders of both houses.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/10) (from Ch. 120, par. 1160)

Sec. 10. The ~~Department Division~~, upon application therefor on forms prescribed by the ~~Department Division~~ Department, and upon a determination by the ~~Department Division~~ Department that the applicant meets all of the qualifications specified in this Act, shall issue a license as an agent to sell lottery tickets or shares. No license as an agent to sell lottery tickets or shares shall be issued to any person to engage in business exclusively as a lottery sales agent.

Before issuing such license the ~~Director Superintendent~~ shall consider (a) the financial responsibility and security of the person and his business or activity, (b) the accessibility of his place of business or activity to the public, (c) the sufficiency of existing licenses to serve the public convenience, (d) the volume of expected sales, and (e) such other factors as he or she may deem appropriate.

Until September 1, 1987, the provisions of Sections 2a, 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 6, 6a, 6b, 6c, 8, 9, 10, 12 and 13.5 of the Retailers' Occupation Tax Act which are not inconsistent with this Act shall apply to the subject matter of this Act to the same extent as if such provisions were included in this Act. For purposes of this Act, references in such incorporated Sections of the Retailers' Occupation Tax Act to retailers, sellers or persons engaged in the business of selling tangible personal property mean persons engaged in selling lottery tickets or shares; references in such incorporated Sections to sales of tangible personal property mean the selling of lottery tickets or shares; and references in such incorporated Sections to certificates of registration mean licenses issued under this Act. The provisions of the Retailers' Occupation Tax Act as heretofore applied to the subject matter of this Act shall not apply with respect to tickets sold by or delivered to lottery sales agents on and after September 1, 1987, but such provisions shall continue to apply with respect to transactions involving the sale and delivery of tickets prior to September 1, 1987.

All licenses issued by the ~~Department Division~~ under this Act shall be valid for a period not to exceed 2 years after issuance unless sooner revoked, canceled or suspended as in this Act provided. No license issued under this Act shall be transferable or assignable. Such license shall be conspicuously displayed in

the place of business conducted by the licensee in Illinois where lottery tickets or shares are to be sold under such license.

For purposes of this Section, the term "person" shall be construed to mean and include an individual, association, partnership, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, referee, any other person acting in a fiduciary or representative capacity who is appointed by a court, or any combination of individuals. "Person" includes any department, commission, agency or instrumentality of the State, including any county, city, village, or township and any agency or instrumentality thereof.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/10.1) (from Ch. 120, par. 1160.1)

Sec. 10.1. The following are ineligible for any license under this Act:

- (a) any person who has been convicted of a felony;
- (b) any person who is or has been a professional gambler or gambling promoter;
- (c) any person who has engaged in bookmaking or other forms of illegal gambling;
- (d) any person who is not of good character and reputation in the community in which he resides;
- (e) any person who has been found guilty of any fraud or misrepresentation in any connection;
- (f) any firm or corporation in which a person defined in (a), (b), (c), (d) or (e) has a proprietary, equitable or credit interest of 5% or more.
- (g) any organization in which a person defined in (a), (b), (c), (d) or (e) is an officer, director, or managing agent, whether compensated or not;
- (h) any organization in which a person defined in (a), (b), (c), (d), or (e) is to participate in the management or sales of lottery tickets or shares.

However, with respect to persons defined in (a), the Department may grant any such person a license under this Act when:

- 1) at least 10 years have elapsed since the date when the sentence for the most recent such conviction was satisfactorily completed;
- 2) the applicant has no history of criminal activity subsequent to such conviction;
- 3) the applicant has complied with all conditions of probation, conditional discharge, supervision, parole or mandatory supervised release; and
- 4) the applicant presents at least 3 letters of recommendation from responsible citizens in his community who personally can attest that the character and attitude of the applicant indicate that he is unlikely to commit another crime.

The ~~Department Division~~ may revoke, without notice or a hearing, the license of any agent who violates this Act or any rule or regulation promulgated pursuant to this Act. However, if the ~~Department Division~~ does revoke a license without notice and an opportunity for a hearing, the ~~Department Division~~ shall, by appropriate notice, afford the person whose license has been revoked an opportunity for a hearing within 30 days after the revocation order has been issued. As a result of any such hearing, the ~~Department Division~~ may confirm its action in revoking the license, or it may order the restoration of such license.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/10.1a) (from Ch. 120, par. 1160.1a)

Sec. 10.1a. In addition to other grounds specified in this Act, the ~~Department Division~~ shall refuse to issue and shall suspend the license of any lottery sales agency 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 Department, until such time as the requirements of any such tax Act are satisfied, unless the agency is contesting, in accordance with the procedures established by the appropriate revenue Act, its liability for the tax or the amount of tax. The ~~Department Division~~ shall affirmatively verify the tax status of every sales agency before issuing or renewing a license. For purposes of this Section, a sales agency shall not be considered delinquent in the payment of a tax if the agency (a) has entered into an agreement with the Department for the payment of all such taxes that are due and (b) is in compliance with the agreement.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/10.2) (from Ch. 120, par. 1160.2)

Sec. 10.2. Application and other fees. Each application for a new lottery license must be accompanied by a one-time application fee of \$50; the ~~Department Division~~, however, may waive the fee for licenses of limited duration as provided by Department rule. Each application for renewal of a lottery license must be accompanied by a renewal fee of \$25. Each lottery licensee granted on-line status pursuant to the Department's rules must pay a fee of \$10 per week as partial reimbursement for telecommunications

charges incurred by the Department in providing access to the lottery's on-line gaming system. The Department, by rule, may increase or decrease the amount of these fees.

(Source: P.A. 93-840, eff. 7-30-04; 94-776, eff. 5-19-06.)

(20 ILCS 1605/10.6) (from Ch. 120, par. 1160.6)

Sec. 10.6. The ~~Department Division~~ shall make an effort to more directly inform players of the odds of winning prizes. This effort shall include, at a minimum, that the ~~Department Division~~ require all ticket agents to display a placard stating the odds of winning for each game offered by that agent.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/10.7)

Sec. 10.7. Compulsive gambling.

(a) Each lottery sales agent shall post a statement regarding obtaining assistance with gambling problems and including a toll-free "800" telephone number providing crisis counseling and referral services to families experiencing difficulty as a result of problem or compulsive gambling. The text of the statement shall be determined by rule by the Department of Human Services, shall be no more than one sentence in length, and shall be posted on the placard required under Section 10.6. The signs shall be provided by the Department of Human Services.

(b) The ~~Department Division~~ shall print a statement regarding obtaining assistance with gambling problems, the text of which shall be determined by rule by the Department of Human Services, on all paper stock it provides to the general public.

(c) The ~~Department Division~~ shall print a statement of no more than one sentence in length regarding obtaining assistance with gambling problems and including a toll-free "800" number providing crisis counseling and referral services to families experiencing difficulty as a result of problem or compulsive gambling on the back of all lottery tickets.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/12) (from Ch. 120, par. 1162)

Sec. 12. The public inspection and copying of the records and data of the ~~Department Division~~ and the Board shall be generally governed by the provisions of the Freedom of Information Act except that the following shall additionally be exempt from inspection and copying:

- (i) information privileged against introduction in judicial proceedings;
- (ii) internal communications of the several agencies;
- (iii) information concerning secret manufacturing processes or confidential data submitted by any person under this Act;
- (iv) any creative proposals, scripts, storyboards or other materials prepared by or for

the ~~Department Division~~, prior to the placement of the materials in the media, if the prior release of the materials would compromise the effectiveness of an advertising campaign.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/13) (from Ch. 120, par. 1163)

Sec. 13. Except as otherwise provided in Section 13.1, no prize, nor any portion of a prize, nor any right of any person to a prize awarded shall be assignable. Any prize, or portion thereof remaining unpaid at the death of a prize winner, may be paid to the estate of such deceased prize winner, or to the trustee under a revocable living trust established by the deceased prize winner as settlor, provided that a copy of such a trust has been filed with the Department along with a notarized letter of direction from the settlor and no written notice of revocation has been received by the ~~Department Division~~ prior to the settlor's death. Following such a settlor's death and prior to any payment to such a successor trustee, the ~~Director Superintendent~~ shall obtain from the trustee a written agreement to indemnify and hold the Department ~~and the Division~~ harmless with respect to any claims that may be asserted against the Department ~~or the Division~~ arising from payment to or through the trust. Notwithstanding any other provision of this Section, any person pursuant to an appropriate judicial order may be paid the prize to which a winner is entitled, and all or part of any prize otherwise payable by State warrant under this Section shall be withheld upon certification to the State Comptroller from the Department of Healthcare and Family Services as provided in Section 10-17.5 of The Illinois Public Aid Code. The Director ~~and the Superintendent~~ shall be discharged of all further liability upon payment of a prize pursuant to this Section.

(Source: P.A. 94-776, eff. 5-19-06; 95-331, eff. 8-21-07.)

(20 ILCS 1605/14) (from Ch. 120, par. 1164)

Sec. 14. No person shall sell a ticket or share at a price greater than that fixed by rule or regulation of the Department ~~or the Division~~. No person other than a licensed lottery sales agent or distributor shall sell or resell lottery tickets or shares. No person shall charge a fee to redeem a winning ticket or share.

Any person convicted of violating this Section shall be guilty of a Class B misdemeanor; provided, that if any offense under this Section is a subsequent offense, the offender shall be guilty of a Class 4 felony.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/14.3)

Sec. 14.3. Misuse of proprietary material prohibited. Except as may be provided in Section 7.11, or by bona fide sale or by prior authorization from the Department ~~or the Division~~, or otherwise by law, all premiums, promotional and other proprietary material produced or acquired by the ~~Department Division~~ as part of its advertising and promotional activities shall remain the property of the Department. Nothing herein shall be construed to affect the rights or obligations of the Department or any other person under federal or State trademark or copyright laws.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/19) (from Ch. 120, par. 1169)

Sec. 19. The ~~Department Division~~ shall establish an appropriate period for the claiming of prizes for each lottery game offered. Each claim period shall be stated in game rules and written play instructions issued by the ~~Director Superintendent~~ in accordance with Section 7.1 of this Act. Written play instructions shall be made available to all players through sales agents licensed to sell game tickets or shares. Prizes for lottery games which involve the purchase of a physical lottery ticket may be claimed only by presentation of a valid winning lottery ticket that matches validation records on file with the Lottery; no claim may be honored which is based on the assertion that the ticket was lost or stolen. No lottery ticket which has been altered, mutilated, or fails to pass validation tests shall be deemed to be a winning ticket.

If no claim is made for the money within the established claim period, the prize may be included in the prize pool of such special drawing or drawings as the ~~Department Division~~ may, from time to time, designate. Unclaimed multi-state game prize money may be included in the multi-state prize pool for such special drawing or drawings as the multi-state game directors may, from time to time, designate. Any bonuses offered by the Department to sales agents who sell winning tickets or shares shall be payable to such agents regardless of whether or not the prize money on the ticket or share is claimed, provided that the agent can be identified as the vendor of the winning ticket or share, and that the winning ticket or share was sold on or after January 1, 1984. All unclaimed prize money not included in the prize pool of a special drawing shall be transferred to the Common School Fund.

(Source: P.A. 94-776, eff. 5-19-06.)

(20 ILCS 1605/21) (from Ch. 120, par. 1171)

Sec. 21. All lottery sales agents or distributors shall be liable to the Lottery for any and all tickets accepted or generated by any employee or representative of that agent or distributor, and such tickets shall be deemed to have been purchased by the agent or distributor unless returned to the Lottery within the time and in the manner prescribed by the ~~Director Superintendent~~. All moneys received by such agents or distributors from the sale of lottery tickets or shares, less the amount retained as compensation for the sale of the tickets or shares and the amount paid out as prizes, shall be paid over to a lottery representative or deposited in a bank or savings and loan association approved by the State Treasurer, as prescribed by the ~~Director Superintendent~~.

No bank or savings and loan association shall receive public funds as permitted by this Section, unless it has complied with the requirements established pursuant to Section 6 of the Public Funds Investment Act.

Each payment or deposit shall be accompanied by a report of the agent's receipts and transactions in the sale of lottery tickets in such form and containing such information as the ~~Director Superintendent~~ may require. Any discrepancies in such receipts and transactions may be resolved as provided by the rules and regulations of the Department.

If any money due the Lottery by a sales agent or distributor is not paid when due or demanded, it shall immediately become delinquent and be billed on a subsequent monthly statement. If on the closing date for any monthly statement a delinquent amount previously billed of more than \$50 remains unpaid, interest in such amount shall be accrued at the rate of 2% per month or fraction thereof from the date when such delinquent amount becomes past due until such delinquent amount, including interest, penalty and other costs and charges that the Department may incur in collecting such amounts, is paid. In case any agent or distributor fails to pay any moneys due the Lottery within 30 days after a second bill or statement is rendered to the agent or distributor, such amount shall be deemed seriously delinquent and may be referred by the Department to a collection agency or credit bureau for collection. Any contract entered into by the Department for the collection of seriously delinquent accounts with a collection agency or credit bureau may be satisfied by a commercially reasonable percentage of the delinquent account recouped, which shall be negotiated by the Department in accordance with commercially accepted standards. Any costs incurred

by the Department or others authorized to act in its behalf in collecting such delinquencies may be assessed against the agent or distributor and included as a part of the delinquent account.

In case of failure of an agent or distributor to pay a seriously delinquent amount, or any portion thereof, including interest, penalty and costs, the Department Division may issue a Notice of Assessment. In determining amounts shown on the Notice of Assessment, the Department Division shall utilize the financial information available from its records. Such Notice of Assessment shall be prima facie correct and shall be prima facie evidence of delinquent sums due under this Section at any hearing before the Board, or its Hearing Officers, or at any other legal proceeding. Reproduced copies of the Department's Division's records relating to a delinquent account or a Notice of Assessment offered in the name of the Department, under the Certificate of the Director or any officer or employee of the Department designated in writing by the Director shall, without further proof, be admitted into evidence in any such hearing or any legal proceeding and shall be prima facie proof of the delinquency, including principal and any interest, penalties and costs, as shown thereon. The Attorney General may bring suit on behalf of the Department to collect all such delinquent amounts, or any portion thereof, including interest, penalty and costs, due the Lottery.

Any person who accepts money that is due to the Department from the sale of lottery tickets under this Act, but who wilfully fails to remit such payment to the Department when due or who purports to make such payment but wilfully fails to do so because his check or other remittance fails to clear the bank or savings and loan association against which it is drawn, in addition to the amount due and in addition to any other penalty provided by law, shall be assessed, and shall pay, a penalty equal to 5% of the deficiency plus any costs or charges incurred by the Department in collecting such amount.

The Director may make such arrangements for any person(s), banks, savings and loan associations or distributors, to perform such functions, activities or services in connection with the operation of the lottery as he deems advisable pursuant to this Act, the State Comptroller Act, or the rules and regulations of the Department, and such functions, activities or services shall constitute lawful functions, activities and services of such person(s), banks, savings and loan associations or distributors.

All income arising out of any activity or purpose of the Department Division shall, pursuant to the State Finance Act, be paid into the State Treasury except as otherwise provided by the rules and regulations of the Department and shall be covered into a special fund to be known as the State Lottery Fund. Banks and savings and loan associations may be compensated for services rendered based upon the activity and amount of funds on deposit.

(Source: P.A. 94-776, eff. 5-19-06.)

Section 1025. The Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois is amended by changing Sections 2310-347 and 2310-348 as follows:

(20 ILCS 2310/2310-347)

Sec. 2310-347. The Ticket For The Cure Board.

(a) The Ticket For The Cure Board is created as an advisory board within the Department. The Board shall consist of 10 members as follows: 2 members appointed by the President of the Senate; 2 members appointed by the Minority Leader of the Senate; 2 members appointed by the Speaker of the House of Representatives; 2 members appointed by the Minority Leader of the House of Representatives; and 2 members appointed by the Governor with the advice and consent of the Senate, one of whom shall be designated as chair of the Board at the time of appointment.

If a vacancy occurs in the Board membership, the vacancy shall be filled in the same manner as the initial appointment.

(b) Board members shall serve without compensation but may be reimbursed for their reasonable travel expenses from funds available for that purpose. The Department shall provide staff and administrative support services to the Board.

(c) The Board must:

(i) consult with the Department of the Lottery Revenue in designing and promoting the Ticket For The Cure

special instant scratch-off lottery game; and

(ii) review grant applications, make recommendations and comments, and consult with the Department of Public Health in making grants, from amounts appropriated from the Ticket For The Cure Fund, to public or private entities in Illinois for the purpose of funding research concerning breast cancer and for funding services for breast cancer victims in accordance with Section 21.5 of the Illinois Lottery Law.

(d) The Board is discontinued on June 30, 2012.

(Source: P.A. 94-120, eff. 7-6-05.)

(20 ILCS 2310/2310-348)

Sec. 2310-348. The Quality of Life Board.

(a) The Quality of Life Board is created as an advisory board within the Department. The Board shall consist of 11 members as follows: 2 members appointed by the President of the Senate; one member appointed by the Minority Leader of the Senate; 2 members appointed by the Speaker of the House of Representatives; one member appointed by the Minority Leader of the House of Representatives; 2 members appointed by the Governor, one of whom shall be designated as chair of the Board at the time of appointment; and 3 members appointed by the Director who represent organizations that advocate for the healthcare needs of the first and second highest HIV/AIDS risk groups, one each from the northern Illinois region, the central Illinois region, and the southern Illinois region.

The Board members shall serve one 2-year term. If a vacancy occurs in the Board membership, the vacancy shall be filled in the same manner as the initial appointment.

(b) Board members shall serve without compensation but may be reimbursed for their reasonable travel expenses from funds appropriated for that purpose. The Department shall provide staff and administrative support services to the Board.

(c) The Board must:

(i) consult with the Department of ~~the Lottery Revenue~~ in designing and promoting the Quality of Life special instant scratch-off lottery game; and

(ii) review grant applications, make recommendations and comments, and consult with the Department of Public Health in making grants, from amounts appropriated from the Quality of Life Endowment Fund, to public or private entities in Illinois for the purpose of HIV/AIDS-prevention education and for making grants to public or private entities in Illinois for the purpose of funding organizations that serve the highest at-risk categories for contracting HIV or developing AIDS in accordance with Section 21.7 of the Illinois Lottery Law.

(d) The Board is discontinued on June 30, 2013.

(Source: P.A. 95-674, eff. 10-11-07.)

(20 ILCS 3948/Act rep.)

Section 1035. On July 1, 2009, the Illinois Global Partnership Act is repealed.

Section 1036. The Illinois Municipal Code is amended by changing Section 8-12-12 as follows:

(65 ILCS 5/8-12-12) (from Ch. 24, par. 8-12-12)

Sec. 8-12-12. (a) The Governor shall call the first meeting of the Authority. Thereafter, the Directors shall prescribe the times and places for their meetings and the manner in which regular and special meetings may be called. The Directors shall comply in all respects with the Open Meetings Act. The Authority shall be a public body to which The Freedom of Information Act applies.

(b) ~~Three A majority of the~~ Directors ~~holding office~~ shall constitute a quorum for the conduct of business. The affirmative votes of at least 3 Directors shall be necessary for adopting any rule or regulation, and for any other action required by this Division to be taken by resolution, directive or ordinance.

(Source: P.A. 86-1211.)

Section 1045. The School Code is amended by changing Sections 1A-1, 1A-2, and 1A-4 as follows:

(105 ILCS 5/1A-1) (from Ch. 122, par. 1A-1)

Sec. 1A-1. Members and terms.

(a) (Blank).

(b) The State Board of Education shall consist of 8 members and a chairperson, who shall be appointed by the Governor with the advice and consent of the Senate from a pattern of regional representation as follows: 2 appointees shall be selected from among those counties of the State other than Cook County and the 5 counties contiguous to Cook County; 2 appointees shall be selected from Cook County, one of whom shall be a resident of the City of Chicago and one of whom shall be a resident of that part of Cook County which lies outside the city limits of Chicago; 2 appointees shall be selected from among the 5 counties of the State that are contiguous to Cook County; and 3 members shall be selected as members-at-large (one of which shall be the chairperson). ~~The Governor who takes office on the second Monday of January after his or her election shall be the person who nominates members to fill vacancies whose terms begin after that date and before the term of the next Governor begins.~~

Notwithstanding the Officials and Employees Termination Act of 2009, the terms of all members appointed by the Governor end on the effective date of this amendatory Act of the 96th General Assembly, and those members may not hold over in office for more than 90 days after the effective date of this amendatory Act of the 96th General Assembly. The initial appointees of the Governor on or after the

effective date of this amendatory Act of the 96th General Assembly shall serve terms as follows:

(1) One of the members who is selected as a member-at-large and who is not the chairperson and one of the members who is selected from among the 5 counties of the State that are contiguous to Cook County shall serve until June 30, 2010 and until their respective successors are appointed and have qualified.

(2) The member who is selected from Cook County and who is a resident of the City of Chicago and the member who is selected from among those counties of the State other than Cook County and the 5 counties contiguous to Cook County shall serve until June 30, 2011 and until their respective successors are appointed and have qualified.

(3) The other member who is selected as a member-at-large and who is not the chairperson and the other member who is selected from among the 5 counties of the State that are contiguous to Cook County shall serve until June 30, 2012 and until their respective successors are appointed and have qualified.

(4) The member who is selected from Cook County and who is a resident of that part of Cook County that lies outside the city limits of Chicago and the other member who is selected from among those counties of the State other than Cook County and the 5 counties contiguous to Cook County shall serve until June 30, 2013 and until their respective successors are appointed and have qualified.

(5) The member who is selected as a member-at-large and who is the chairperson shall serve until June 30, 2014. Nothing in this amendatory Act of the 96th General Assembly prevents the Governor from making a temporary appointment.

After the initial terms, members appointed by the Governor shall serve 5-year terms commencing on July 1 of the year of appointment and running through June 30 of the fifth following year and until their respective successors are appointed and have qualified. Nothing in this amendatory Act of the 96th General Assembly prevents the Governor from making a temporary appointment.

~~The term of each member of the State Board of Education whose term expires on January 12, 2005 shall instead terminate on the effective date of this amendatory Act of the 93rd General Assembly. Of these 3 seats, (i) the member initially appointed pursuant to this amendatory Act of the 93rd General Assembly whose seat was vacant on April 27, 2004 shall serve until the second Wednesday of January, 2009 and (ii) the other 2 members initially appointed pursuant to this amendatory Act of the 93rd General Assembly shall serve until the second Wednesday of January, 2007.~~

~~The term of the member of the State Board of Education whose seat was vacant on April 27, 2004 and whose term expires on January 10, 2007 shall instead terminate on the effective date of this amendatory Act of the 93rd General Assembly. The member initially appointed pursuant to this amendatory Act of the 93rd General Assembly to fill this seat shall be the chairperson and shall serve until the second Wednesday of January, 2007.~~

~~The term of the member of the State Board of Education whose seat was vacant on May 28, 2004 but after April 27, 2004 and whose term expires on January 10, 2007 shall instead terminate on the effective date of this amendatory Act of the 93rd General Assembly. The member initially appointed pursuant to this amendatory Act of the 93rd General Assembly to fill this seat shall serve until the second Wednesday of January, 2007.~~

~~The term of the other member of the State Board of Education whose term expires on January 10, 2007 shall instead terminate on the effective date of this amendatory Act of the 93rd General Assembly. The member initially appointed pursuant to this amendatory Act of the 93rd General Assembly to fill this seat shall serve until the second Wednesday of January, 2007.~~

~~The term of the member of the State Board of Education whose term expires on January 14, 2009 and who was selected from among the 5 counties of the State that are contiguous to Cook County and is a resident of Lake County shall instead terminate on the effective date of this amendatory Act of the 93rd General Assembly. The member initially appointed pursuant to this amendatory Act of the 93rd General Assembly to fill this seat shall serve until the second Wednesday of January, 2009.~~

~~Upon expiration of the terms of the members initially appointed under this amendatory Act of the 93rd General Assembly and members whose terms were not terminated by this amendatory Act of the 93rd General Assembly, their respective successors shall be appointed for terms of 4 years, from the second Wednesday in January of each odd numbered year and until their respective successors are appointed and qualified.~~

~~(c) At Of the 4 members, excluding the chairperson, whose terms expire on the second Wednesday of January, 2007 and every 4 years thereafter, one of those members must be an at large member and at no time may more than 5 2 of those members be from one political party. Of the 4 members whose terms expire on the second Wednesday of January, 2009 and every 4 years thereafter, one of those members must be an at large member and at no time may more than 2 of those members be from one political party. Party~~

membership is defined as having voted in the primary of the party in the last primary before appointment.

(d) Vacancies in terms shall be filled by appointment by the Governor with the advice and consent of the Senate for the extent of the unexpired term. If a vacancy in membership occurs at a time when the Senate is not in session, the Governor shall make a temporary appointment until the next meeting of the Senate, when the Governor shall appoint a person to fill that membership for the remainder of its term. If the Senate is not in session when appointments for a full term are made, the appointments shall be made as in the case of vacancies.

(Source: P.A. 93-1036, eff. 9-14-04.)

(105 ILCS 5/1A-2) (from Ch. 122, par. 1A-2)

Sec. 1A-2. Qualifications. The members of the State Board of Education shall be citizens of the United States and residents of the State of Illinois and shall be selected as far as may be practicable on the basis of their knowledge of, or interest and experience in, problems of public education. No member of the State Board of Education shall be gainfully employed or administratively connected with any school system, nor have any interest in or benefit from funds provided by the State Board of Education to an institution of higher learning, public or private, within Illinois, nor shall they be members of a school board or board of school trustees of a public or nonpublic school, college, university or technical institution within Illinois. No member shall be appointed to more than 2 ~~full six-year~~ terms. Members shall be reimbursed for all ordinary and necessary expenses incurred in performing their duties as members of the Board. Expenses shall be approved by the Board and be consistent with the laws, policies, and requirements of the State of Illinois regarding such expenditures, plus any member may include in his claim for expenses \$50 per day for meeting days.

(Source: P.A. 90-548, eff. 1-1-98; revised 10-23-08.)

(105 ILCS 5/1A-4) (from Ch. 122, par. 1A-4)

Sec. 1A-4. Powers and duties of the Board.

A. (Blank).

B. The Board shall determine the qualifications of and appoint a chief education officer, to be known as the State Superintendent of Education, who may be proposed by the Governor and who shall serve at the pleasure of the Board and pursuant to a performance-based contract linked to statewide student performance and academic improvement within Illinois schools. Upon expiration or buyout of the contract of the State Superintendent of Education in office on the effective date of this amendatory Act of the 93rd General Assembly, a State Superintendent of Education shall be appointed by a State Board of Education that includes the 7 new Board members who were appointed to fill seats of members whose terms were terminated on the effective date of this amendatory Act of the 93rd General Assembly. Thereafter, a State Superintendent of Education must, at a minimum, be appointed at the beginning of each term of a Governor after that Governor has made appointments to the Board. A performance-based contract issued for the employment of a State Superintendent of Education entered into on or after the effective date of this amendatory Act of the 93rd General Assembly must expire no later than February 1, 2007, and subsequent contracts must expire no later than February 1 each 4 years thereafter. No contract shall be extended or renewed beyond February 1, 2007 and February 1 each 4 years thereafter, but a State Superintendent of Education shall serve until his or her successor is appointed. Any such contract entered into during the last 9 months of a Governor's term of office must expire no later than at the end of that term of office. Each contract entered into on or before January 8, 2007 with a State Superintendent of Education must provide that the State Board of Education may terminate the contract for cause, and the State Board of Education shall not thereafter be liable for further payments under the contract. With regard to this amendatory Act of the 93rd General Assembly, it is the intent of the General Assembly that, beginning with the Governor who takes office on the second Monday of January, 2007, a State Superintendent of Education be appointed at the beginning of each term of a Governor after that Governor has made appointments to the Board. The State Superintendent of Education shall not serve as a member of the State Board of Education. The Board shall set the compensation of the State Superintendent of Education who shall serve as the Board's chief executive officer. The Board shall also establish the duties, powers and responsibilities of the State Superintendent, which shall be included in the State Superintendent's performance-based contract along with the goals and indicators of student performance and academic improvement used to measure the performance and effectiveness of the State Superintendent. The State Board of Education may delegate to the State Superintendent of Education the authority to act on the Board's behalf, provided such delegation is made pursuant to adopted board policy or the powers delegated are ministerial in nature. The State Board may not delegate authority under this Section to the State Superintendent to (1) nonrecognize school districts, (2) withhold State payments as a penalty, or (3) make final decisions under the contested case

provisions of the Illinois Administrative Procedure Act unless otherwise provided by law.

C. The powers and duties of the State Board of Education shall encompass all duties delegated to the Office of Superintendent of Public Instruction on January 12, 1975, except as the law providing for such powers and duties is thereafter amended, and such other powers and duties as the General Assembly shall designate. The Board shall be responsible for the educational policies and guidelines for public schools, pre-school through grade 12 and Vocational Education in the State of Illinois. The Board shall analyze the present and future aims, needs, and requirements of education in the State of Illinois and recommend to the General Assembly the powers which should be exercised by the Board. The Board shall recommend the passage and the legislation necessary to determine the appropriate relationship between the Board and local boards of education and the various State agencies and shall recommend desirable modifications in the laws which affect schools.

D. Two members of the Board shall be appointed by the chairperson to serve on a standing joint Education Committee, 2 others shall be appointed from the Board of Higher Education, 2 others shall be appointed by the chairperson of the Illinois Community College Board, and 2 others shall be appointed by the chairperson of the Human Resource Investment Council. The Committee shall be responsible for making recommendations concerning the submission of any workforce development plan or workforce training program required by federal law or under any block grant authority. The Committee will be responsible for developing policy on matters of mutual concern to elementary, secondary and higher education such as Occupational and Career Education, Teacher Preparation and Certification, Educational Finance, Articulation between Elementary, Secondary and Higher Education and Research and Planning. The joint Education Committee shall meet at least quarterly and submit an annual report of its findings, conclusions, and recommendations to the State Board of Education, the Board of Higher Education, the Illinois Community College Board, the Human Resource Investment Council, the Governor, and the General Assembly. All meetings of this Committee shall be official meetings for reimbursement under this Act. On the effective date of this amendatory Act of the 95th General Assembly, the Joint Education Committee is abolished.

E. Five members of the Board shall constitute a quorum. A majority vote of the members appointed, confirmed and serving on the Board is required to approve any action, except that the 7 new Board members who were appointed to fill seats of members whose terms were terminated on the effective date of this amendatory act of the 93rd General Assembly may vote to approve actions when appointed and serving.

Using the most recently available data, the Board shall prepare and submit to the General Assembly and the Governor on or before January 14, 1976 and annually thereafter a report or reports of its findings and recommendations. Such annual report shall contain a separate section which provides a critique and analysis of the status of education in Illinois and which identifies its specific problems and recommends express solutions therefor. Such annual report also shall contain the following information for the preceding year ending on June 30: each act or omission of a school district of which the State Board of Education has knowledge as a consequence of scheduled, approved visits and which constituted a failure by the district to comply with applicable State or federal laws or regulations relating to public education, the name of such district, the date or dates on which the State Board of Education notified the school district of such act or omission, and what action, if any, the school district took with respect thereto after being notified thereof by the State Board of Education. The report shall also include the statewide high school dropout rate by grade level, sex and race and the annual student dropout rate of and the number of students who graduate from, transfer from or otherwise leave bilingual programs. The Auditor General shall annually perform a compliance audit of the State Board of Education's performance of the reporting duty imposed by this amendatory Act of 1986. A regular system of communication with other directly related State agencies shall be implemented.

The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report with the Speaker, the Minority Leader and the Clerk of the House of Representatives and the President, the Minority Leader and the Secretary of the Senate and the Legislative Council, as required by Section 3.1 of the General Assembly Organization Act, and filing such additional copies with the State Government Report Distribution Center for the General Assembly as is required under paragraph (t) of Section 7 of the State Library Act.

F. Upon appointment of the 7 new Board members who were appointed to fill seats of members whose terms were terminated on the effective date of this amendatory Act of the 93rd General Assembly, the Board shall review all of its current rules in an effort to streamline procedures, improve efficiency, and eliminate unnecessary forms and paperwork.

(Source: P.A. 95-626, eff. 6-1-08; 95-793, eff. 1-1-09.)

Section 1060. The Acupuncture Practice Act is amended by changing Section 35 as follows:

(225 ILCS 2/35)

(Section scheduled to be repealed on January 1, 2018)

Sec. 35. Board of Acupuncture. The Secretary shall appoint a Board of Acupuncture to consist of 7 persons who shall be appointed by and shall serve in an advisory capacity to the Secretary. Four members must hold an active license to engage in the practice of acupuncture in this State, one member shall be a chiropractic physician licensed under the Medical Practice Act of 1987 who is actively engaged in the practice of acupuncture, one member shall be a physician licensed to practice medicine in all of its branches in Illinois, and one member must be a member of the public who is not licensed under this Act or a similar Act of another jurisdiction and who has no connection with the profession.

Members shall serve 4-year terms and until their successors are appointed and qualified. No member shall be reappointed to the Board for a term that would cause his or her continuous service on the Board to be longer than 8 consecutive years. 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 amendatory Act of 1997.

The Board may annually elect a chairperson and a vice-chairperson who shall preside in the absence of the chairperson. The membership of the Board should reasonably reflect representation from the geographic areas in this State. The Secretary may terminate the appointment of any member for cause. The Secretary may give due consideration to all recommendations of the Board. ~~Four members of the Board A majority of the Board members currently appointed~~ shall constitute a quorum. The affirmative vote of at least 4 members is required for Board decisions. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise the right and perform all the duties of the Board. Members of the Board shall have no liability in any action based upon any disciplinary proceeding or other activity performed in good faith as a member of the Board.

(Source: P.A. 95-450, eff. 8-27-07.)

Section 1070. The Clinical Psychologist Licensing Act is amended by changing Section 7 as follows:

(225 ILCS 15/7) (from Ch. 111, par. 5357)

(Section scheduled to be repealed on January 1, 2017)

Sec. 7. Board. The Secretary shall appoint a Board that shall serve in an advisory capacity to the Secretary.

The Board shall consist of 7 persons, 4 of whom are licensed clinical psychologists, and actively engaged in the practice of clinical psychology, 2 of whom are licensed clinical psychologists and are full time faculty members of accredited colleges or universities who are engaged in training clinical psychologists, and one of whom is a public member who is not a licensed health care provider. In appointing members of the Board, the Secretary shall give due consideration to the adequate representation of the various fields of health care psychology such as clinical psychology, school psychology and counseling psychology. In appointing members of the Board, the Secretary shall give due consideration to recommendations by members of the profession of clinical psychology and by the State-wide organizations representing the interests of clinical psychologists and organizations representing the interests of academic programs as well as recommendations by approved doctoral level psychology programs in the State of Illinois. The members shall be appointed for a term of 4 years. No member shall be eligible to serve for more than 2 full terms. Any appointment to fill a vacancy shall be for the unexpired portion of the term. A member appointed to fill a vacancy for an unexpired term for a duration of 2 years or more may be reappointed for a maximum of one term and a member appointed to fill a vacancy for an unexpired term for a duration of less than 2 years may be reappointed for a maximum of 2 terms. The Secretary may remove any member for cause at any time prior to the expiration of his or her term.

The Board shall annually elect one of its members as chairperson and vice chairperson.

The members of the Board shall be reimbursed for all authorized legitimate and necessary expenses incurred in attending the meetings of the Board.

The Secretary shall give due consideration to all recommendations of the Board. In the event the Secretary disagrees with or takes action contrary to the recommendation of the Board, he or she shall provide the Board with a written and specific explanation of his or her actions.

~~Four members of the Board A majority of the Board members currently appointed~~ shall constitute a quorum. The affirmative vote of at least 4 members is required for Board decisions. A vacancy in the membership of the Board shall not impair the right of a quorum to perform all of the duties of the Board.

Members of the Board shall have no liability in any action based upon any disciplinary proceeding or

other activity performed in good faith as a member of the Board.

The Secretary may terminate the appointment of any member for cause which in the opinion of the Secretary reasonably justifies such termination.

(Source: P.A. 93-745, eff. 7-15-04; 94-870, eff. 6-16-06.)

Section 1080. The Clinical Social Work and Social Work Practice Act is amended by changing Section 6 as follows:

(225 ILCS 20/6) (from Ch. 111, par. 6356)

(Section scheduled to be repealed on January 1, 2018)

Sec. 6. Social Work Examining and Disciplinary Board.

(1) The Secretary shall appoint a Social Work Examining and Disciplinary Board consisting of 9 persons who shall serve in an advisory capacity to the Secretary. The Board shall be composed of 6 licensed clinical social workers, one of whom shall be employed in a public human service agency, one of whom shall be a certified school social worker, one of whom shall be employed in the private not-for-profit sector and one of whom shall serve as the chairperson, two licensed social workers, and one member of the public who is not regulated under this Act or a similar Act and who clearly represents consumer interests.

(2) Members shall serve for a term of 4 years and until their successors are appointed and qualified. No member shall be reappointed if such reappointment would cause that person's service on the Board to be longer than 8 successive years. Appointments to fill vacancies for the unexpired portion of a vacated term shall be made in the same manner as original appointments.

(3) The membership of the Board should represent racial and cultural diversity and reasonably reflect representation from different geographic areas of Illinois.

(4) The Secretary may terminate the appointment of any member for cause.

(5) The Secretary shall consider the recommendation of the Board on all matters and questions relating to this Act.

(6) The Board is charged with the duties and responsibilities of recommending to the Secretary the adoption of all policies, procedures and rules which may be required or deemed advisable in order to perform the duties and functions conferred on the Board, the Secretary and the Department to carry out the provisions of this Act.

(7) The Board may make recommendations on all matters relating to continuing education including the number of hours necessary for license renewal, waivers for those unable to meet such requirements and acceptable course content. Such recommendations shall not impose an undue burden on the Department or an unreasonable restriction on those seeking license renewal.

(8) The Board shall annually elect one of its members as chairperson and one as vice chairperson.

(9) Members of the Board shall be reimbursed for all authorized legitimate and necessary expenses incurred in attending the meetings of the Board.

(10) ~~Five members of the Board~~ ~~A majority of the Board members currently appointed~~ shall constitute a quorum. The affirmative vote of at least 5 members is required for Board decisions. A vacancy in the membership of the Board shall not impair the right of a quorum to perform all of the duties of the Board.

(11) Members of the Board shall have no liability in an action based upon a disciplinary proceeding or other activity performed in good faith as a member of the Board.

(Source: P.A. 95-687, eff. 10-23-07.)

Section 1090. The Home Medical Equipment and Services Provider License Act is amended by changing Section 25 as follows:

(225 ILCS 51/25)

(Section scheduled to be repealed on January 1, 2018)

Sec. 25. Home Medical Equipment and Services Board. The Secretary shall appoint a Home Medical Equipment and Services Board, in consultation with a state association representing the home medical equipment and services industry, to serve in an advisory capacity to the Secretary. The Board shall consist of 7 members. Four members shall be home medical equipment and services provider representatives, at least one of whom shall be a pharmacy-based provider. The 3 remaining members shall include one home care clinical specialist, one respiratory care practitioner, and one public member.

Members shall serve 4 year terms and until their successors are appointed and qualified. No member shall be reappointed to the Board for a term that would cause continuous service on the Board to exceed 8 years. Appointments to fill vacancies shall be made in the same manner as original appointments, for the unexpired portion of the vacated term.

The home medical equipment and services provider representatives appointed to the Board shall have engaged in the provision of home medical equipment and services or related home care services for at least

3 years prior to their appointment, shall be currently engaged in providing home medical equipment and services in the State of Illinois, and must have no record of convictions related to fraud or abuse under either State or federal law.

The membership of the Board should reasonably reflect representation from the geographic areas in this State.

The Board shall annually elect one of its members as chairperson and vice chairperson.

Members of the Board shall receive as compensation a reasonable sum as determined by the Secretary for each day actually engaged in the duties of the office, and shall be reimbursed for authorized expenses incurred in performing the duties of the office.

The Secretary may terminate the appointment of any member for cause which in the opinion of the Secretary reasonably justifies the termination.

Members of the Board shall be immune from suit in an action based upon any disciplinary proceedings or other activities performed in good faith as members of the Board.

Four members of the Board ~~A majority of Board members currently appointed~~ shall constitute a quorum. The affirmative vote of at least 4 members is required for Board decisions. A vacancy in the membership of the Board shall not impair the rights of a quorum to exercise the rights and perform all of the duties of the Board.

(Source: P.A. 95-703, eff. 12-31-07.)

Section 1100. The Marriage and Family Therapy Licensing Act is amended by changing Section 25 as follows:

(225 ILCS 55/25) (from Ch. 111, par. 8351-25)

(Section scheduled to be repealed on January 1, 2018)

Sec. 25. Marriage and Family Therapy Licensing and Disciplinary Board.

(a) There is established within the Department the Marriage and Family Therapy Licensing and Disciplinary Board to be appointed by the Secretary. The Board shall be composed of 7 persons who shall serve in an advisory capacity to the Secretary. The Board shall elect a chairperson and a vice chairperson.

(b) In appointing members of the Board, the Secretary shall give due consideration to recommendations by members of the profession of marriage and family therapy and by the statewide organizations solely representing the interests of marriage and family therapists.

(c) Five members of the Board shall be marriage and family therapists who have been in active practice for at least 5 years immediately preceding their appointment, or engaged in the education and training of masters, doctoral, or post-doctoral students of marriage and family therapy, or engaged in marriage and family therapy research. Each marriage or family therapy teacher or researcher shall have spent the majority of the time devoted to the study or research of marriage and family therapy during the 2 years immediately preceding his or her appointment to the Board. The appointees shall be licensed under this Act.

(d) Two members shall be representatives of the general public who have no direct affiliation or work experience with the practice of marriage and family therapy and who clearly represent consumer interests.

(e) Board members shall be appointed for terms of 4 years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the Board member whom he or she shall succeed. Upon the expiration of this term of office, a Board member shall continue to serve until a successor is appointed and qualified. No member shall be reappointed to the Board for a term that would cause continuous service on the Board to be longer than 8 years.

(f) The membership of the Board shall reasonably reflect representation from the various geographic areas of the State.

(g) Members of the Board shall be immune from suit in any action based upon any disciplinary proceedings or other activities performed in good faith as members of the Board.

(h) The Secretary may remove any member of the Board for any cause that, in the opinion of the Secretary, reasonably justifies termination.

(i) The Secretary may consider the recommendations of the Board on questions of standards of professional conduct, discipline, and qualification of candidates or licensees under this Act.

(j) The members of the Board shall be reimbursed for all legitimate, necessary, and authorized expenses.

(k) Four members of the Board ~~A majority of the Board members currently appointed~~ shall constitute a quorum. The affirmative vote of at least 4 members is required for Board decisions. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

(Source: P.A. 95-703, eff. 12-31-07.)

Section 1110. The Nurse Practice Act is amended by changing Section 75-15 as follows:

(225 ILCS 65/75-15) (was 225 ILCS 65/17-15)

(Section scheduled to be repealed on January 1, 2018)

Sec. 75-15. Center for Nursing Advisory Board.

(a) There is created the Center for Nursing Advisory Board, which shall consist of 11 members appointed by the Governor, with 6 members of the Advisory Board being nurses representative of various nursing specialty areas. The other 5 members may include representatives of associations, health care providers, nursing educators, and consumers. The Advisory Board shall be chaired by the Nursing Act Coordinator, who shall be a voting member of the Advisory Board.

(b) The membership of the Advisory Board shall reasonably reflect representation from the geographic areas in this State.

(c) Members of the Advisory Board appointed by the Governor shall serve for terms of 4 years, with no member serving more than 10 successive years, except that, initially, 4 members shall be appointed to the Advisory Board for terms that expire on June 30, 2009, 4 members shall be appointed to the Advisory Board for terms that expire on June 30, 2008, and 3 members shall be appointed to the Advisory Board for terms that expire on June 30, 2007. A member shall serve until his or her successor is appointed and has qualified. 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.

(d) A quorum of the Advisory Board shall consist of ~~6 members a majority of Advisory Board members currently serving.~~ The affirmative vote of at least 6 members is required for Advisory Board decisions. ~~A majority vote of the quorum is required for Advisory Board decisions.~~ A vacancy in the membership of the Advisory Board shall not impair the right of a quorum to exercise all of the rights and perform all of the duties of the Advisory Board.

(e) The Governor may remove any appointed member of the Advisory Board for misconduct, incapacity, or neglect of duty and shall be the sole judge of the sufficiency of the cause for removal.

(f) Members of the Advisory Board are immune from suit in any action based upon any activities performed in good faith as members of the Advisory Board.

(e) Members of the Advisory Board shall not receive compensation, but shall be reimbursed for actual traveling, incidentals, and expenses necessarily incurred in carrying out their duties as members of the Advisory Board, as approved by the Department.

(Source: P.A. 94-1020, eff. 7-11-06; 95-639, eff. 10-5-07.)

Section 1120. The Nursing Home Administrators Licensing and Disciplinary Act is amended by changing Section 5 as follows:

(225 ILCS 70/5) (from Ch. 111, par. 3655)

(Section scheduled to be repealed on January 1, 2018)

Sec. 5. Board.

(a) There is hereby created the Nursing Home Administrators Licensing and Disciplinary Board. The Board shall consist of 7 members appointed by the Governor. All shall be residents of the State of Illinois. Two members shall be representatives of the general public. Five members shall be nursing home administrators who for at least 5 years prior to their appointments were licensed under this Act. The public members shall have no responsibility for management or formation of policy of, nor any financial interest in, nursing homes as defined in this Act, nor any other connection with the profession. In appointing licensed nursing home administrators, the Governor shall take into consideration the recommendations of the nursing home professional associations.

(b) Members shall be appointed for a term of 4 years by the Governor. The Governor shall fill any vacancy for the remainder of the unexpired term. Any member of the Board may be removed by the Governor for cause. Each member shall serve on the Board until his or her successor is appointed and qualified. No member of the Board shall serve more than 2 consecutive 4 year terms.

In making appointments the Governor shall attempt to insure that the various geographic regions of the State of Illinois are properly represented.

(c) The Board shall annually elect one of its members as chairperson and one as vice chairperson. No officer shall be elected more than twice in succession to the same office. Each officer shall serve until his or her successor has been elected and qualified.

(d) Four members of the Board ~~A majority of the Board members currently appointed~~ shall constitute a quorum. The affirmative vote of at least 4 members is required for Board decisions. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

(e) Each member and member-officer of the Board may receive a per diem stipend as the Secretary shall determine. Each member shall be paid their necessary expenses while engaged in the performance of his or her duties.

(f) (Blank).

(g) (Blank).

(h) Members of the Board shall be immune from suit in any action based upon any disciplinary proceedings or other acts performed in good faith as members of the Board.

(i) (Blank).

(j) The Secretary shall give due consideration to all recommendations of the Board. If the Secretary disagrees with or takes action contrary to the recommendation of the Board, he or she shall provide the Board with a written and specific explanation of his or her action.

(Source: P.A. 95-703, eff. 12-31-07.)

Section 1130. The Illinois Optometric Practice Act of 1987 is amended by changing Section 11 as follows:

(225 ILCS 80/11) (from Ch. 111, par. 3911)

(Section scheduled to be repealed on January 1, 2017)

Sec. 11. Optometric Licensing and Disciplinary Board. The Secretary shall appoint an Illinois Optometric Licensing and Disciplinary Board as follows: Seven persons who shall be appointed by and shall serve in an advisory capacity to the Secretary. Five members must be lawfully and actively engaged in the practice of optometry in this State, one member shall be a licensed optometrist, with a full-time faculty appointment with the Illinois College of Optometry, and one member must be a member of the public who shall be a voting member and is not licensed under this Act, or a similar Act of another jurisdiction, or have any connection with the profession. Neither the public member nor the faculty member shall participate in the preparation or administration of the examination of applicants for licensure or certification.

Members shall serve 4-year terms and until their successors are appointed and qualified. No member shall be appointed to the Board for more than 2 successive 4-year terms, not counting any partial terms when appointed to fill the unexpired portion of a vacated term. Appointments to fill vacancies shall be made in the same manner as original appointments, for the unexpired portion of the vacated term.

The Board shall annually elect a chairperson and a vice-chairperson, both of whom shall be licensed optometrists.

The membership of the Board should reasonably reflect representation from the geographic areas in this State.

~~Four members of the Board~~ ~~A majority of the Board members currently appointed~~ shall constitute a quorum. The affirmative vote of at least 4 members is required for Board decisions. A vacancy in the membership of the Board shall not impair the right of a quorum to perform all of the duties of the Board.

The Secretary may terminate the appointment of any member for cause.

The Secretary shall give due consideration to all recommendations of the Board, and in the event that the Secretary disagrees with or takes action contrary to the recommendation of the Board, he or she shall provide the Board with a written and specific explanation of this action. None of the functions, powers or duties of the Department with respect to policy matters relating to licensure, discipline, and examination, including the promulgation of such rules as may be necessary for the administration of this Act, shall be exercised by the Department except upon review of the Board.

Without, in any manner, limiting the power of the Department to conduct investigations, the Board may recommend to the Secretary that one or more licensed optometrists be selected by the Secretary to conduct or assist in any investigation pursuant to this Act. Such licensed optometrist may receive remuneration as determined by the Secretary.

(Source: P.A. 94-787, eff. 5-19-06.)

Section 1140. The Pharmacy Practice Act is amended by changing Section 10 as follows:

(225 ILCS 85/10) (from Ch. 111, par. 4130)

(Section scheduled to be repealed on January 1, 2018)

Sec. 10. State Board of Pharmacy. There is created in the Department the State Board of Pharmacy. It shall consist of 9 members, 7 of whom shall be licensed pharmacists. Each of those 7 members must be a licensed pharmacist in good standing in this State, a graduate of an accredited college of pharmacy or hold a Bachelor of Science degree in Pharmacy and have at least 5 years' practical experience in the practice of pharmacy subsequent to the date of his licensure as a licensed pharmacist in the State of Illinois. There shall be 2 public members, who shall be voting members, who shall not be licensed pharmacists in this State or any other state.

Each member shall be appointed by the Governor.

Members shall be appointed to 5 year terms. The Governor shall fill any vacancy for the remainder of the unexpired term. Partial terms over 3 years in length shall be considered full terms. A member may be reappointed for a successive term, but no member shall serve more than 2 full terms in his or her lifetime.

In making the appointment of members on the Board, the Governor shall give due consideration to recommendations by the members of the profession of pharmacy and by pharmacy organizations therein. The Governor shall notify the pharmacy organizations promptly of any vacancy of members on the Board and in appointing members shall give consideration to individuals engaged in all types and settings of pharmacy practice.

The Governor may remove any member of the Board for misconduct, incapacity or neglect of duty and he shall be the sole judge of the sufficiency of the cause for removal.

Each member of the Board shall be reimbursed for such actual and legitimate expenses as he may incur in going to and from the place of meeting and remaining thereat during sessions of the Board. In addition, each member of the Board may receive a per diem payment in an amount determined from time to time by the Director for attendance at meetings of the Board and conducting other official business of the Board.

The Board shall hold quarterly meetings at such times and places and upon notice as the Department may determine and as its business may require. ~~Five members of the Board~~ ~~A majority of the Board members currently appointed~~ shall constitute a quorum. The affirmative vote of at least 5 members is required for Board decisions. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

The Board shall exercise the rights, powers and duties which have been vested in the Board under this Act, and any other duties conferred upon the Board by law.

(Source: P.A. 95-689, eff. 10-29-07.)

Section 1150. The Podiatric Medical Practice Act of 1987 is amended by changing Section 7 as follows: (225 ILCS 100/7) (from Ch. 111, par. 4807)

(Section scheduled to be repealed on January 1, 2018)

Sec. 7. Creation of the Board. The Secretary shall appoint a Podiatric Medical Licensing Board as follows: 5 members must be actively engaged in the practice of podiatric medicine in this State for a minimum of 3 years and one member must be a member of the general public who is not licensed under this Act or a similar Act of another jurisdiction.

Members shall serve 3 year terms and serve until their successors are appointed and qualified. No member shall be reappointed to the Board for a term that would cause his or her continuous service on the Board to be longer than 8 successive years.

~~Four members of the Board~~ ~~A majority of Board members currently appointed~~ shall constitute a quorum. The affirmative vote of at least 4 members is required for Board decisions. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise the rights and perform all of the duties of the Board.

In making appointments to the Board the Secretary shall give due consideration to recommendations by the Illinois Podiatric Medical Association and shall promptly give due notice to the Illinois Podiatric Medical Association of any vacancy in the membership of the Board.

Appointments to fill vacancies shall be made in the same manner as original appointments, for the unexpired portion of the vacated term.

The Board shall annually elect a chairperson and vice-chairperson.

The membership of the Board should reasonably reflect representation from the geographic areas in this State.

Members of the Board shall be immune from suit in any action based upon any disciplinary proceedings or other activities performed in good faith as members of the Board.

The members of the Board may receive as compensation a reasonable sum as determined by the Secretary for each day actually engaged in the duties of the office, and all legitimate and necessary expenses incurred in attending the meetings of the Board.

The Secretary may terminate the appointment of any member for cause that in the opinion of the Secretary reasonably justifies such termination.

The Secretary shall consider the recommendations of the Board on questions involving standards of professional conduct, discipline, and qualifications of candidates and licensees under this Act.

Notice of proposed rulemaking shall be transmitted to the Board and the Department shall review the response of the Board and any recommendations made in the response. 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.

(Source: P.A. 95-235, eff. 8-17-07.)

Section 1160. The Professional Boxing Act is amended by changing Section 2 as follows:

(225 ILCS 105/2) (from Ch. 111, par. 5002)

(Section scheduled to be repealed on January 1, 2012)

Sec. 2. State Professional Boxing Board. There is created the State Professional Boxing Board consisting of 6 persons who shall be appointed by and shall serve in an advisory capacity to the Director. One shall be a physician licensed to practice medicine in all of its branches. The Director shall appoint each member to serve for a term of 3 years and until his or her successor is appointed and qualified. One member of the board shall be designated as the Chairperson and one member shall be designated as the Vice-chairperson. No member shall be appointed to the Board for a term which would cause continuous service to be more than 9 years. Service prior to January 1, 2000 shall not be considered in calculating length of service on the Board. Each member of the board shall receive compensation for each day he or she is engaged in transacting the business of the board and, in addition, shall be reimbursed for his or her authorized and approved expenses necessarily incurred in relation to such service in accordance with the travel regulations applicable to the Department at the time the expenses are incurred.

Four members of the Board ~~A majority of the current members appointed~~ shall constitute a quorum. The affirmative vote of at least 4 members is required for Board decisions.

The members of the Board shall be immune from suit in any action based upon any disciplinary proceedings or other acts performed in good faith as members of the Board.

The Director may remove any member of the Board for misconduct, incapacity, or neglect of duty. The Director shall reduce to writing any causes for removal.

(Source: P.A. 91-408, eff. 1-1-00; 92-499, eff. 1-1-02.)

Section 1170. The Professional Counselor and Clinical Professional Counselor Licensing Act is amended by changing Section 30 as follows:

(225 ILCS 107/30) (from Ch. 111, par. 8451-30)

(Section scheduled to be repealed on January 1, 2013)

Sec. 30. Professional Counselor Examining and Disciplinary Board.

(a) The Director shall appoint a Board which shall serve in an advisory capacity to the Director. The Board shall consist of 7 persons, 2 of whom are licensed solely as professional counselors, 3 of whom are licensed solely as clinical professional counselors, one full-time faculty member of an accredited college or university that is engaged in training professional counselors or clinical professional counselors who possesses the qualifications substantially equivalent to the education and experience requirements for a professional counselor or clinical professional counselor, and one member of the public who is not a licensed health care provider. In appointing members of the Board, the Director shall give due consideration to the adequate representation of the various fields of counseling. In appointing members of the Board, the Director shall give due consideration to recommendations by members of the professions of professional counseling and clinical professional counseling, the Statewide organizations representing the interests of professional counselors and clinical professional counselors, organizations representing the interests of academic programs, rehabilitation counseling programs, and approved counseling programs in the State of Illinois.

(b) Members shall be appointed for and shall serve 4 year terms and until their successors are appointed and qualified, except that of the initial appointments 2 members shall be appointed to serve for 2 years, 2 shall be appointed to serve for 3 years, and the remaining shall be appointed to serve for 4 years and until their successors are appointed and qualified. No member shall be reappointed to the Board for a term that would cause continuous service on the Board to be longer than 8 years. Any appointment to fill a vacancy shall be for the unexpired portion of the term.

(c) The membership of the Board should reasonably reflect representation from different geographic areas of Illinois.

(d) Any member appointed to fill a vacancy shall be eligible for reappointment to only one full term.

(e) The Director may remove any member for cause at any time prior to the expiration of his or her term.

(f) The Board shall annually elect one of its members as chairperson.

(g) The members of the Board shall be reimbursed for all legitimate, necessary, and authorized expenses incurred in attending the meetings of the Board.

(h) The Board may make recommendations on matters relating to approving graduate counseling, rehabilitation counseling, psychology, and related programs.

(i) The Board may make recommendations on matters relating to continuing education including the

number of hours necessary for license renewal, waivers for those unable to meet such requirements, and acceptable course content. These recommendations shall not impose an undue burden on the Department or an unreasonable restriction on those seeking license renewal.

(j) The Director shall give due consideration to all recommendations of the Board.

(k) Four members of the Board ~~A majority of the Board members currently appointed~~ shall constitute a quorum. The affirmative vote of at least 4 members is required for Board decisions. A vacancy in the membership of the Board shall not impair the right of a quorum to perform all of the duties of the Board.

(l) Members of the Board shall have no criminal, civil, or professional liability in an action based upon a disciplinary proceeding or other activity performed in good faith as a member of the Board, except for willful or wanton misconduct.

(Source: P.A. 92-719, eff. 7-25-02.)

Section 1180. The Illinois Speech-Language Pathology and Audiology Practice Act is amended by changing Section 5 as follows:

(225 ILCS 110/5) (from Ch. 111, par. 7905)

(Section scheduled to be repealed on January 1, 2018)

Sec. 5. Board of Speech-Language Pathology and Audiology. There is created a Board of Speech-Language Pathology and Audiology to be composed of persons designated from time to time by the Secretary, as follows:

(a) Five persons, 2 of whom have been licensed speech-language pathologists for a period of 5 years or more, 2 of whom have been licensed audiologists for a period of 5 years or more, and one public member. The board shall annually elect a chairperson and a vice-chairperson.

(b) Terms for all members shall be for 3 years. A member shall serve until his or her successor is appointed and qualified. Partial terms over 2 years in length shall be considered as full terms. A member may be reappointed for a successive term, but no member shall serve more than 2 full terms.

(c) The membership of the Board should reasonably reflect representation from the various geographic areas of the State.

(d) In making appointments to the Board, the Secretary shall give due consideration to recommendations by organizations of the speech-language pathology and audiology professions in Illinois, including the Illinois Speech-Language-Hearing Association and the Illinois Academy of Audiology, and shall promptly give due notice to such organizations of any vacancy in the membership of the Board. The Secretary may terminate the appointment of any member for any cause, which in the opinion of the Secretary, reasonably justifies such termination.

(e) Three members of the Board ~~A majority of the Board members currently appointed~~ shall constitute a quorum. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the Board. The affirmative vote of at least 3 members is required for Board decisions.

(f) The members of the Board may each receive as compensation a reasonable sum as determined by the Secretary for each day actually engaged in the duties of the office, and all legitimate and necessary expenses incurred in attending the meetings of the Board.

(g) Members of the Board shall be immune from suit in any action based upon any disciplinary proceedings or other activities performed in good faith as members of the Board.

(h) The Secretary may consider the recommendations of the Board in establishing guidelines for professional conduct, the conduct of formal disciplinary proceedings brought under this Act, and qualifications of applicants. Notice of proposed rulemaking shall be transmitted to the Board and the Department shall review the response of the Board and any recommendations made in the response. The Department, at any time, may seek the expert advice and knowledge of the Board on any matter relating to the administration or enforcement of this Act.

(i) Whenever the Secretary is satisfied that substantial justice has not been done either in an examination or in the revocation, suspension, or refusal of a license, or other disciplinary action relating to a license, the Secretary may order a reexamination or rehearing.

(Source: P.A. 94-528, eff. 8-10-05; 95-465, eff. 8-27-07.)

Section 1181. The Fire Equipment Distributor and Employee Regulation Act of 2000 is amended by changing Section 25 as follows:

(225 ILCS 216/25)

(Section scheduled to be repealed on January 1, 2011)

Sec. 25. Fire Equipment Distributor and Employee Advisory Board. There is created the Fire Equipment

Distributor and Employee Advisory Board consisting of 9 members to be appointed by the State Fire Marshal as soon as practicable after the effective date of this Act. Two of the members shall possess at least a Class A Fire Distributor License, 2 shall possess at least a Class B Fire Distributor License, 2 shall possess at least a Class C Fire Distributor License, 2 shall be representatives of the active fire prevention services who are not licensed under this Act, and one shall be a public member who is not licensed under this Act or a similar Act of another jurisdiction and who has no connection with any business licensed under this Act. The State Fire Marshal shall be an ex officio member of the Board. Each member shall be a resident of Illinois. Each appointment to the Board shall have a minimum of 5 years experience as a licensee in the field in which the person is licensed, be an officer in a licensed fire equipment distributor company, and be actively engaged in the fire equipment business. In making Board appointments, the State Fire Marshal shall give consideration to the recommendations by members of the profession and by organizations therein. The membership shall reasonably reflect representation from geographic areas in this State.

Each Board member shall serve for a term of 4 years and until his or her successor is appointed and qualified. However, in making initial appointments, one member shall be appointed to serve for one year, 2 shall be appointed to serve for 2 years, 2 shall be appointed to serve for 3 years, and the remaining members, one of whom shall be the public member, shall be appointed to serve for 4 years. 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.

A member of the Board may be removed from office for just cause. A member subject to formal disciplinary proceedings shall disqualify himself or herself from Board business until the charge is resolved. A member also shall disqualify himself or herself from any matter on which the member may not objectively make a decision.

Board members shall receive no compensation but shall be reimbursed for expenses incurred in connection with their duties as board members.

Five members of the Board ~~A majority of Board members then appointed~~ shall constitute a quorum. The affirmative vote of at least 5 members is required for Board decisions. ~~A majority vote of the quorum is required for a Board decision.~~

The Board shall elect from its membership a chairman and other officers as it may deem necessary.

Board members shall not be liable for any of their acts, omissions, decisions, or any other conduct in connection with their duties on the Board, except those involving willful, wanton, or intentional misconduct.

The Board may have such powers as may be granted by the State Fire Marshal to carry out the provisions of this Act.

(Source: P.A. 91-835, eff. 6-16-00.)

Section 1182. The Illinois Roofing Industry Licensing Act is amended by changing Section 11.5 as follows:

(225 ILCS 335/11.5)

(Section scheduled to be repealed on January 1, 2016)

Sec. 11.5. The Roofing Advisory Board is created and shall consist of 8 persons, one of whom is a knowledgeable public member and 7 of whom have been issued licenses as roofing contractors by the Department. One of the 7 licensed roofing contractors on the Board shall represent a statewide association representing home builders and another of the 7 licensed roofing contractors shall represent an association predominately representing retailers. The public member shall not be licensed under this Act or any other Act the Department administers. Each member shall be appointed by the Director. Members shall be appointed who reasonably represent the different geographic areas of the State. Five members of the Board shall constitute a quorum. The affirmative vote of at least 5 members is required for Board decisions. ~~A quorum of the Board shall consist of the majority of Board members appointed.~~

Members of the Roofing Advisory Board shall be immune from suit in any action based upon any disciplinary proceedings or other acts performed in good faith as members of the Roofing Advisory Board, unless the conduct that gave rise to the suit was willful and wanton misconduct.

The persons appointed shall hold office for 4 years and until a successor is appointed and qualified. The initial terms shall begin July 1, 1997. Of the members of the Board first appointed, 2 shall be appointed to serve for 2 years, 2 shall be appointed to serve for 3 years, and 3 shall be appointed to serve for 4 years. No member shall serve more than 2 complete 4 year terms.

Within 90 days of a vacancy occurring, the Director shall fill the vacancy for the unexpired portion of the term with an appointee who meets the same qualifications as the person whose position has become vacant.

The Board shall meet annually to elect one member as chairman and one member as vice-chairman. No officer shall be elected more than twice in succession to the same office. The members of the Board shall receive reimbursement for actual, necessary, and authorized expenses incurred in attending the meetings of the Board.

(Source: P.A. 94-254, eff. 7-19-05.)

Section 1183. The Barber, Cosmetology, Esthetics, and Nail Technology Act of 1985 is amended by changing Section 4-2 as follows:

(225 ILCS 410/4-2) (from Ch. 111, par. 1704-2)

(Section scheduled to be repealed on January 1, 2016)

Sec. 4-2. The Barber, Cosmetology, Esthetics, and Nail Technology Board. There is established within the Department the Barber, Cosmetology, Esthetics, and Nail Technology Board, composed of 11 persons, which shall serve in an advisory capacity to the Director in all matters related to the practice of barbering, cosmetology, esthetics, and nail technology.

The 11 members of the Board shall be appointed as follows: 6 licensed cosmetologists, all of whom hold a current license as a cosmetologist or cosmetology teacher and, for appointments made after the effective date of this amendatory Act of 1996, at least 2 of whom shall be an owner of or a major stockholder in a school of cosmetology, 2 of whom shall be representatives of either a franchiser or an owner operating salons in 2 or more locations within the State, one of whom shall be an independent salon owner, and no one of the cosmetologist members shall be a manufacturer, jobber, or stockholder in a factory of cosmetology articles or an immediate family member of any of the above; 2 of whom shall be barbers holding a current license; one member who shall be a licensed esthetician or esthetics teacher; one member who shall be a licensed nail technician or nail technology teacher; and one public member who holds no licenses issued by the Department. The Director shall give due consideration for membership to recommendations by members of the professions and by their professional organizations. Members shall serve 4 year terms and until their successors are appointed and qualified. No member shall be reappointed to the Board for more than 2 terms. Appointments to fill vacancies shall be made in the same manner as original appointments for the unexpired portion of the vacated term. Members of the Board in office on the effective date of this amendatory Act of 1996 shall continue to serve for the duration of the terms to which they have been appointed, but beginning on that effective date all appointments of licensed cosmetologists and barbers to serve as members of the Board shall be made in a manner that will effect at the earliest possible date the changes made by this amendatory Act of 1996 in the representative composition of the Board.

~~Six members of the Board. A majority of Board members then appointed constitutes a quorum. The affirmative vote of at least 6 members is required for Board decisions. A majority of the quorum is required for a Board decision.~~

Whenever the Director is satisfied that substantial justice has not been done in an examination, the Director may order a reexamination by the same or other examiners.

(Source: P.A. 93-253, eff. 7-22-03; 94-451, eff. 12-31-05.)

Section 1184. The Home Inspector License Act is amended by changing Section 25-10 as follows:

(225 ILCS 441/25-10)

(Section scheduled to be repealed on January 1, 2012)

Sec. 25-10. Home Inspector Advisory Board.

(a) There is hereby created the Home Inspector Advisory Board. The Board shall be composed of 7 voting members appointed by the Commissioner, plus the liaison under Section 25-15, who shall serve ex officio and without vote. Members shall be appointed to the Board subject to the following conditions:

(1) All appointed members shall have been residents and citizens of this State for at least 5 years prior to the date of appointment.

(2) The appointed membership of the Board should reasonably reflect the geographic distribution of the population of the State.

(3) Five appointed members shall be actively engaged and currently licensed as home inspectors, except that the initial appointees may be persons without a license who have been actively engaged as home inspectors for a period of 5 years immediately before the effective date of this Act. Failure of an initial appointee under this item (3) to obtain a license by January 1, 2003 shall constitute resignation from the Board.

(4) One appointed member shall hold a valid license as a real estate broker and shall have been actively engaged as a real estate broker for a period of not less than 5 years.

(5) One appointed member shall represent the interests of the general public. This

member and the member's spouse shall not be licensed under this Act, nor be employed by nor have any interest in a home inspection business or a real estate brokerage business.

In making appointments to the Board, the Commissioner shall give due consideration to recommendations by members and organizations representing the home inspection and real estate industries.

(b) The term for members of the Board shall be 4 years, except for the initial appointees. Of the initial appointees, 4 members shall be appointed for terms ending January 1, 2007 and 3 members shall be appointed for terms ending January 1, 2006. No member shall serve more than 10 years in a lifetime.

(c) The Commissioner may terminate the appointment of any member for cause that, in the opinion of the Commissioner, reasonably justifies the termination. Cause for termination may include, without limitation, misconduct, incapacity, neglect of duty, or missing 4 Board meetings during any one calendar year.

(d) ~~Four members of the Board~~ ~~A majority of the voting members currently appointed~~ shall constitute a quorum. The affirmative vote of at least 4 members is required for Board decisions. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise all of the rights and perform all of the duties of the Board.

(e) The Board shall meet at least quarterly and may be convened by the Chairperson or 3 members of the Board upon 10 days' written notice.

(g) The liaison appointed pursuant to Section 25-15 of this Act shall serve, ex officio, as Chairperson of the Board, without vote.

(h) The Board shall advise OBRE on matters of licensing and education and shall make recommendations to OBRE on those matters. OBRE shall give due consideration to all recommendations presented by the Board.

(i) The Board shall hear and make recommendations to the Commissioner on disciplinary matters that require a formal evidentiary hearing. The Commissioner shall give due consideration to the recommendations of the Board involving discipline and questions about the standards of professional conduct of licensees.

(j) The Board may make recommendations to OBRE concerning the consistency of the rules with the provisions of this Act and the administration and enforcement of the rules. OBRE shall give due consideration to the recommendations of the Board prior to promulgating rules.

(k) The Board shall make recommendations to OBRE on the approval of courses submitted to OBRE pursuant to this Act and rules. OBRE shall give due consideration to the recommendations of the Board prior to approving courses.

(l) Each voting member of the Board shall receive a per diem stipend in an amount to be determined by the Commissioner. Each voting member shall be paid his or her necessary expenses while engaged in the performance of his or her duties.

(m) Members of the Board shall be immune from suit in an action based upon any disciplinary proceedings or other acts performed in good faith as members of the Board.

(Source: P.A. 92-239, eff. 8-3-01.)

Section 1185. The Interpreter for the Deaf Licensure Act of 2007 is amended by changing Section 65 as follows:

(225 ILCS 443/65)

(Section scheduled to be repealed on January 1, 2018)

Sec. 65. Illinois Board of Interpreters.

(a) The Director shall appoint an Illinois Board of Interpreters for the Deaf consisting of 7 voting members who shall serve in an advisory capacity to the Commission and to the Department. The Director shall consider recommendations by consumer and professional groups related to the interpreting profession and deaf and hard of hearing community. The Board shall be composed of 4 licensed interpreters for the deaf, 3 deaf or hard of hearing consumers, and the Interpreter Coordinator who shall serve as a non-voting member.

(b) The initial Board shall be appointed no later than January 31, 2008.

(c) The Board shall meet no less than 2 times per year and may hold additional meetings as required in the performance of its duties.

(d) The members shall be appointed to serve 4-year terms and shall serve until successors are appointed and qualified, except that initial appointments shall be staggered with one member appointed to serve for one year, 2 members appointed to serve for 2 years, 2 members appointed to serve for 3 years, and 2 members appointed to serve for 4 years. No member shall be eligible to serve more than 2 consecutive

terms. A vacancy in the Board shall be filled by appointment by the Director for the remainder of the unexpired term. Those interpreter members appointed initially must qualify for and obtain licensure under this Act on or before July 1, 2009.

(e) In making appointments, the Director shall attempt to ensure that various ethnic and geographic regions of the State are properly represented.

(f) The membership of the Board shall reflect the differences in certification, experience, education, and background and knowledge of interpreting for the deaf and evaluation.

(g) The Director may terminate the appointment of any member for misconduct, inefficiency, incompetence, or neglect of his or her official duties.

(h) The Board shall make recommendations to the Director in establishing guidelines for policies and procedures under this Act. Notice of proposed rulemaking shall be transmitted to the Board and the Director shall review the response, with the exception of the need for emergency rulemaking.

(i) The Director shall consider the recommendation of the Board on all matters and questions relating to this Act.

(j) The Board shall annually elect from its membership a chairperson, vice chairperson, and a secretary.

(k) Members of the Board shall be reimbursed for all authorized legitimate and necessary expenses incurred in attending the meetings of the Board.

(l) Four members of the Board ~~A majority of the Board members currently appointed~~ shall constitute a quorum. The affirmative vote of at least 4 members is required for Board decisions. A vacancy in the membership of the Board shall not impair the right of a quorum to perform all of the duties of the Board.

(m) Except in cases of willful and wanton misconduct, members shall be immune from suit in any action based upon any disciplinary proceedings or other acts performed in good faith as members of the Board.

(Source: P.A. 95-617, eff. 9-12-07.)

Section 1186. The Real Estate Appraiser Licensing Act of 2002 is amended by changing Section 25-10 as follows:

(225 ILCS 458/25-10)

(Section scheduled to be repealed on January 1, 2012)

Sec. 25-10. Real Estate Appraisal Board; appointment.

(a) There is hereby created the Real Estate Appraisal Board. The Board shall be composed of 10 persons appointed by the Governor, plus the Director of the Real Estate Appraisal Division. Members shall be appointed to the Board subject to the following conditions:

(1) All appointed members shall have been residents and citizens of this State for at least 5 years prior to the date of appointment.

(2) The appointed membership of the Board should reasonably reflect the geographic distribution of the population of the State.

(3) Four appointed members shall have been actively engaged and currently licensed as State certified general real estate appraisers for a period of not less than 5 years.

(4) Two appointed members shall have been actively engaged and currently licensed as State certified residential real estate appraisers for a period of not less than 5 years.

(5) Two appointed members shall hold a valid license as a real estate broker for at least 10 years prior to the date of the appointment and shall hold a valid appraiser license issued under this Act or a predecessor Act for a period of at least 5 years prior to the appointment.

(6) One appointed member shall be a representative of a financial institution, as evidenced by his or her employment with a financial institution.

(7) One appointed member shall represent the interests of the general public. This member or his or her spouse shall not be licensed under this Act nor be employed by or have any interest in an appraisal business, real estate brokerage business, or a financial institution.

In making appointments as provided in paragraphs (3) and (4) of this subsection, the Governor shall give due consideration to recommendations by members and organizations representing the real estate appraisal industry.

In making the appointments as provided in paragraph (5) of this subsection, the Governor shall give due consideration to the recommendations by members and organizations representing the real estate industry.

In making the appointment as provided in paragraph (6) of this subsection, the Governor shall give due consideration to the recommendations by members and organizations representing financial institutions.

(b) The term for members of the Board shall be 4 years, except for the initial appointees. Of the initial appointments, 4 members shall be appointed for terms ending June 30, 2006, 3 members shall be appointed for terms ending June 30, 2005, and 3 members shall be appointed for terms ending June 30, 2004. No

member shall serve more than 10 years in a lifetime. Those persons serving on the Board pursuant to the Real Estate Appraiser Licensing Act shall become members of the new Board on July 1, 2002 and shall serve until the Governor has made the new appointments pursuant to this Act.

(c) The Governor may terminate the appointment of a member for cause that, in the opinion of the Governor, reasonably justifies the termination. Cause for termination may include, without limitation, misconduct, incapacity, neglect of duty, or missing 4 Board meetings during any one calendar year.

(d) ~~Six members of the Board. A majority of the Board members currently appointed~~ shall constitute a quorum. ~~The affirmative vote of at least 6 members is required for Board decisions.~~ A vacancy in the membership of the Board shall not impair the right of a quorum to exercise all of the rights and perform all of the duties of the Board.

(e) The Board shall meet at least quarterly and may be convened by the Chairperson, Co-Chairperson, or 3 members of the Board upon 10 days written notice.

(f) The Board shall, annually at the first meeting of the fiscal year, elect a Chairperson and Vice-Chairperson from its members. The Chairperson shall preside over the meetings and shall coordinate with the Director in developing and distributing an agenda for each meeting. In the absence of the Chairperson, the Co-Chairperson shall preside over the meeting.

(g) The Director of the Real Estate Appraisal Division shall serve as a member of the Board without vote.

(h) The Board shall advise and make recommendations to OBRE on matters of licensing and education. OBRE shall give due consideration to all recommendations presented by the Board.

(i) The Board shall hear and make recommendations to the Commissioner on disciplinary matters that require a formal evidentiary hearing. The Commissioner shall give due consideration to the recommendations of the Board involving discipline and questions involving standards of professional conduct of licensees.

(j) The Board may make recommendations to OBRE consistent with the provisions of this Act and for the administration and enforcement of the rules adopted pursuant to this Act. OBRE shall give due consideration to the recommendations of the Board prior to adopting rules.

(k) The Board shall make recommendations to OBRE on the approval of courses submitted to OBRE pursuant to this Act and the rules adopted pursuant to this Act. OBRE shall give due consideration to the recommendations of the Board prior to approving and licensing courses.

(l) Each voting member of the Board shall receive a per diem stipend in an amount to be determined by the Commissioner. Each member shall be paid his or her necessary expenses while engaged in the performance of his or her duties.

(m) Members of the Board shall be immune from suit in an action based upon any disciplinary proceedings or other acts performed in good faith as members of the Board.

(Source: P.A. 92-180, eff. 7-1-02.)

Section 1190. The Illinois Horse Racing Act of 1975 is amended by adding Section 2.5 and by changing Sections 28 and 30 as follows:

(230 ILCS 5/2.5 new)

Sec. 2.5. Separation from Department of Revenue. On the effective date of this amendatory Act of the 96th General Assembly, all of the powers, duties, assets, liabilities, employees, contracts, property, records, pending business, and unexpended appropriations of the Department of Revenue related to the administration and enforcement of this Act are transferred to the Illinois Racing Board, except as specifically provided in this Act.

The status and rights of the transferred employees, and the rights of the State of Illinois and its agencies, under the Personnel Code and applicable collective bargaining agreements or under any pension, retirement, or annuity plan are not affected by that transfer or by any other provision of this amendatory Act of the 96th General Assembly.

This amendatory Act of the 96th General Assembly supersedes Executive Order 9 (2003) and Executive Order 09-05, filed April 1, 2009.

(230 ILCS 5/28) (from Ch. 8, par. 37-28)

Sec. 28. Except as provided in subsection (g) of Section 27 of this Act, moneys collected shall be distributed according to the provisions of this Section 28.

(a) Thirty per cent of the total of all monies received by the State as privilege taxes shall be paid into the Metropolitan Exposition Auditorium and Office Building Fund in the State Treasury.

(b) In addition, 4.5% of the total of all monies received by the State as privilege taxes shall be paid into the State treasury into a special Fund to be known as the Metropolitan Exposition, Auditorium, and Office

Building Fund.

(c) Fifty per cent of the total of all monies received by the State as privilege taxes under the provisions of this Act shall be paid into the Agricultural Premium Fund.

(d) Seven per cent of the total of all monies received by the State as privilege taxes shall be paid into the Fair and Exposition Fund in the State treasury; provided, however, that when all bonds issued prior to July 1, 1984 by the Metropolitan Fair and Exposition Authority shall have been paid or payment shall have been provided for upon a refunding of those bonds, thereafter 1/12 of \$1,665,662 of such monies shall be paid each month into the Build Illinois Fund, and the remainder into the Fair and Exposition Fund. All excess monies shall be allocated to the Department of Agriculture for distribution to county fairs for premiums and rehabilitation as set forth in the Agricultural Fair Act.

(e) The monies provided for in Section 30 shall be paid into the Illinois Thoroughbred Breeders Fund.

(f) The monies provided for in Section 31 shall be paid into the Illinois Standardbred Breeders Fund.

(g) Until January 1, 2000, that part representing 1/2 of the total breakage in Thoroughbred, Harness, Appaloosa, Arabian, and Quarter Horse racing in the State shall be paid into the Illinois Race Track Improvement Fund as established in Section 32.

(h) All other monies received by the Board under this Act shall be paid into the General Revenue Fund of the State.

(i) The salaries of the Board members, secretary, stewards, directors of mutuels, veterinarians, representatives, accountants, clerks, stenographers, inspectors and other employees of the Board, and all expenses of the Board incident to the administration of this Act, including, but not limited to, all expenses and salaries incident to the taking of saliva and urine samples in accordance with the rules and regulations of the Board shall be paid out of the Agricultural Premium Fund.

(j) The Agricultural Premium Fund shall also be used:

(1) for the expenses of operating the Illinois State Fair and the DuQuoin State Fair, including the payment of prize money or premiums;

(2) for the distribution to county fairs, vocational agriculture section fairs, agricultural societies, and agricultural extension clubs in accordance with the Agricultural Fair Act, as amended;

(3) for payment of prize monies and premiums awarded and for expenses incurred in connection with the International Livestock Exposition and the Mid-Continent Livestock Exposition held in Illinois, which premiums, and awards must be approved, and paid by the Illinois Department of Agriculture;

(4) for personal service of county agricultural advisors and county home advisors;

(5) for distribution to agricultural home economic extension councils in accordance with "An Act in relation to additional support and finance for the Agricultural and Home Economic Extension Councils in the several counties in this State and making an appropriation therefor", approved July 24, 1967, as amended;

(6) for research on equine disease, including a development center therefor;

(7) for training scholarships for study on equine diseases to students at the University of Illinois College of Veterinary Medicine;

(8) for the rehabilitation, repair and maintenance of the Illinois and DuQuoin State Fair Grounds and the structures and facilities thereon and the construction of permanent improvements on such Fair Grounds, including such structures, facilities and property located on such State Fair Grounds which are under the custody and control of the Department of Agriculture;

(9) for the expenses of the Department of Agriculture under Section 5-530 of the Departments of State Government Law (20 ILCS 5/5-530);

(10) for the expenses of the Department of Commerce and Economic Opportunity under Sections 605-620, 605-625, and 605-630 of the Department of Commerce and Economic Opportunity Law (20 ILCS 605/605-620, 605/605-625, and 605/605-630);

(11) for remodeling, expanding, and reconstructing facilities destroyed by fire of any Fair and Exposition Authority in counties with a population of 1,000,000 or more inhabitants;

(12) for the purpose of assisting in the care and general rehabilitation of disabled veterans of any war and their surviving spouses and orphans;

(13) for expenses of the Department of State Police for duties performed under this Act;

(14) for the Department of Agriculture for soil surveys and soil and water conservation purposes;

(15) for the Department of Agriculture for grants to the City of Chicago for conducting

the Chicagofest;

~~(16) for the State Comptroller for grants and operating expenses authorized by the Illinois Global Partnership Act.~~

(k) To the extent that monies paid by the Board to the Agricultural Premium Fund are in the opinion of the Governor in excess of the amount necessary for the purposes herein stated, the Governor shall notify the Comptroller and the State Treasurer of such fact, who, upon receipt of such notification, shall transfer such excess monies from the Agricultural Premium Fund to the General Revenue Fund.

(Source: P.A. 94-91, Sections 55-135 and 90-10, eff. 7-1-05.)

(230 ILCS 5/30) (from Ch. 8, par. 37-30)

Sec. 30. (a) The General Assembly declares that it is the policy of this State to encourage the breeding of thoroughbred horses in this State and the ownership of such horses by residents of this State in order to provide for: sufficient numbers of high quality thoroughbred horses to participate in thoroughbred racing meetings in this State, and to establish and preserve the agricultural and commercial benefits of such breeding and racing industries to the State of Illinois. It is the intent of the General Assembly to further this policy by the provisions of this Act.

(b) Each organization licensee conducting a thoroughbred racing meeting pursuant to this Act shall provide at least two races each day limited to Illinois conceived and foaled horses or Illinois foaled horses or both. A minimum of 6 races shall be conducted each week limited to Illinois conceived and foaled or Illinois foaled horses or both. No horses shall be permitted to start in such races unless duly registered under the rules of the Department of Agriculture.

(c) Conditions of races under subsection (b) shall be commensurate with past performance, quality, and class of Illinois conceived and foaled and Illinois foaled horses available. If, however, sufficient competition cannot be had among horses of that class on any day, the races may, with consent of the Board, be eliminated for that day and substitute races provided.

(d) There is hereby created a special fund of the State Treasury to be known as the Illinois Thoroughbred Breeders Fund.

Except as provided in subsection (g) of Section 27 of this Act, 8.5% of all the monies received by the State as privilege taxes on Thoroughbred racing meetings shall be paid into the Illinois Thoroughbred Breeders Fund.

(e) The Illinois Thoroughbred Breeders Fund shall be administered by the Department of Agriculture with the advice and assistance of the Advisory Board created in subsection (f) of this Section.

(f) The Illinois Thoroughbred Breeders Fund Advisory Board shall consist of the Director of the Department of Agriculture, who shall serve as Chairman; a member of the Illinois Racing Board, designated by it; 2 representatives of the organization licensees conducting thoroughbred racing meetings, recommended by them; 2 representatives of the Illinois Thoroughbred Breeders and Owners Foundation, recommended by it; and 2 representatives of the Horsemen's Benevolent Protective Association or any successor organization established in Illinois comprised of the largest number of owners and trainers, recommended by it, with one representative of the Horsemen's Benevolent and Protective Association to come from its Illinois Division, and one from its Chicago Division. Advisory Board members shall serve for 2 years commencing January 1 of each odd numbered year. If representatives of the organization licensees conducting thoroughbred racing meetings, the Illinois Thoroughbred Breeders and Owners Foundation, and the Horsemen's Benevolent Protection Association have not been recommended by January 1, of each odd numbered year, the Director of the Department of Agriculture shall make an appointment for the organization failing to so recommend a member of the Advisory Board. Advisory Board members shall receive no compensation for their services as members but shall be reimbursed for all actual and necessary expenses and disbursements incurred in the execution of their official duties.

(g) No monies shall be expended from the Illinois Thoroughbred Breeders Fund except as appropriated by the General Assembly. Monies appropriated from the Illinois Thoroughbred Breeders Fund shall be expended by the Department of Agriculture, with the advice and assistance of the Illinois Thoroughbred Breeders Fund Advisory Board, for the following purposes only:

(1) To provide purse supplements to owners of horses participating in races limited to

Illinois conceived and foaled and Illinois foaled horses. Any such purse supplements shall not be included in and shall be paid in addition to any purses, stakes, or breeders' awards offered by each organization licensee as determined by agreement between such organization licensee and an organization representing the horsemen. No monies from the Illinois Thoroughbred Breeders Fund shall be used to provide purse supplements for claiming races in which the minimum claiming price is less than \$7,500.

(2) To provide stakes and awards to be paid to the owners of the winning horses in certain races limited to Illinois conceived and foaled and Illinois foaled horses designated as stakes races.

(2.5) To provide an award to the owner or owners of an Illinois conceived and foaled or Illinois foaled horse that wins a maiden special weight, an allowance, overnight handicap race, or claiming race with claiming price of \$10,000 or more providing the race is not restricted to Illinois conceived and foaled or Illinois foaled horses. Awards shall also be provided to the owner or owners of Illinois conceived and foaled and Illinois foaled horses that place second or third in those races. To the extent that additional moneys are required to pay the minimum additional awards of 40% of the purse the horse earns for placing first, second or third in those races for Illinois foaled horses and of 60% of the purse the horse earns for placing first, second or third in those races for Illinois conceived and foaled horses, those moneys shall be provided from the purse account at the track where earned.

(3) To provide stallion awards to the owner or owners of any stallion that is duly registered with the Illinois Thoroughbred Breeders Fund Program prior to the effective date of this amendatory Act of 1995 whose duly registered Illinois conceived and foaled offspring wins a race conducted at an Illinois thoroughbred racing meeting other than a claiming race. Such award shall not be paid to the owner or owners of an Illinois stallion that served outside this State at any time during the calendar year in which such race was conducted.

(4) To provide \$75,000 annually for purses to be distributed to county fairs that provide for the running of races during each county fair exclusively for the thoroughbreds conceived and foaled in Illinois. The conditions of the races shall be developed by the county fair association and reviewed by the ~~Board Department~~ with the advice and assistance of the Illinois Thoroughbred Breeders Fund Advisory Board. There shall be no wagering of any kind on the running of Illinois conceived and foaled races at county fairs.

(4.1) To provide purse money for an Illinois stallion stakes program.

(5) No less than 80% of all monies appropriated from the Illinois Thoroughbred Breeders Fund shall be expended for the purposes in (1), (2), (2.5), (3), (4), (4.1), and (5) as shown above.

(6) To provide for educational programs regarding the thoroughbred breeding industry.

(7) To provide for research programs concerning the health, development and care of the thoroughbred horse.

(8) To provide for a scholarship and training program for students of equine veterinary medicine.

(9) To provide for dissemination of public information designed to promote the breeding of thoroughbred horses in Illinois.

(10) To provide for all expenses incurred in the administration of the Illinois Thoroughbred Breeders Fund.

(h) Whenever the Governor finds that the amount in the Illinois Thoroughbred Breeders Fund is more than the total of the outstanding appropriations from such fund, the Governor shall notify the State Comptroller and the State Treasurer of such fact. The Comptroller and the State Treasurer, upon receipt of such notification, shall transfer such excess amount from the Illinois Thoroughbred Breeders Fund to the General Revenue Fund.

(i) A sum equal to 12 1/2% of the first prize money of every purse won by an Illinois foaled or an Illinois conceived and foaled horse in races not limited to Illinois foaled horses or Illinois conceived and foaled horses, or both, shall be paid by the organization licensee conducting the horse race meeting. Such sum shall be paid from the organization licensee's share of the money wagered as follows: 11 1/2% to the breeder of the winning horse and 1% to the organization representing thoroughbred breeders and owners whose representative serves on the Illinois Thoroughbred Breeders Fund Advisory Board for verifying the amounts of breeders' awards earned, assuring their distribution in accordance with this Act, and servicing and promoting the Illinois thoroughbred horse racing industry. The organization representing thoroughbred breeders and owners shall cause all expenditures of monies received under this subsection (i) to be audited at least annually by a registered public accountant. The organization shall file copies of each annual audit with the Racing Board, the Clerk of the House of Representatives and the Secretary of the Senate, and shall make copies of each annual audit available to the public upon request and upon payment of the reasonable cost of photocopying the requested number of copies. Such payments shall not reduce any award to the owner of the horse or reduce the taxes payable under this Act. Upon completion of its racing meet, each organization licensee shall deliver to the organization representing thoroughbred breeders and owners whose representative serves on the Illinois Thoroughbred Breeders Fund Advisory Board a listing of all the Illinois foaled and the Illinois conceived and foaled horses which won breeders' awards and the amount of

such breeders' awards under this subsection to verify accuracy of payments and assure proper distribution of breeders' awards in accordance with the provisions of this Act. Such payments shall be delivered by the organization licensee within 30 days of the end of each race meeting.

(j) A sum equal to 12 1/2% of the first prize money won in each race limited to Illinois foaled horses or Illinois conceived and foaled horses, or both, shall be paid in the following manner by the organization licensee conducting the horse race meeting, from the organization licensee's share of the money wagered: 11 1/2% to the breeders of the horses in each such race which are the official first, second, third and fourth finishers and 1% to the organization representing thoroughbred breeders and owners whose representative serves on the Illinois Thoroughbred Breeders Fund Advisory Board for verifying the amounts of breeders' awards earned, assuring their proper distribution in accordance with this Act, and servicing and promoting the Illinois thoroughbred horse racing industry. The organization representing thoroughbred breeders and owners shall cause all expenditures of monies received under this subsection (j) to be audited at least annually by a registered public accountant. The organization shall file copies of each annual audit with the Racing Board, the Clerk of the House of Representatives and the Secretary of the Senate, and shall make copies of each annual audit available to the public upon request and upon payment of the reasonable cost of photocopying the requested number of copies.

The 11 1/2% paid to the breeders in accordance with this subsection shall be distributed as follows:

- (1) 60% of such sum shall be paid to the breeder of the horse which finishes in the official first position;
- (2) 20% of such sum shall be paid to the breeder of the horse which finishes in the official second position;
- (3) 15% of such sum shall be paid to the breeder of the horse which finishes in the official third position; and
- (4) 5% of such sum shall be paid to the breeder of the horse which finishes in the official fourth position.

Such payments shall not reduce any award to the owners of a horse or reduce the taxes payable under this Act. Upon completion of its racing meet, each organization licensee shall deliver to the organization representing thoroughbred breeders and owners whose representative serves on the Illinois Thoroughbred Breeders Fund Advisory Board a listing of all the Illinois foaled and the Illinois conceived and foaled horses which won breeders' awards and the amount of such breeders' awards in accordance with the provisions of this Act. Such payments shall be delivered by the organization licensee within 30 days of the end of each race meeting.

(k) The term "breeder", as used herein, means the owner of the mare at the time the foal is dropped. An "Illinois foaled horse" is a foal dropped by a mare which enters this State on or before December 1, in the year in which the horse is bred, provided the mare remains continuously in this State until its foal is born. An "Illinois foaled horse" also means a foal born of a mare in the same year as the mare enters this State on or before March 1, and remains in this State at least 30 days after foaling, is bred back during the season of the foaling to an Illinois Registered Stallion (unless a veterinarian certifies that the mare should not be bred for health reasons), and is not bred to a stallion standing in any other state during the season of foaling. An "Illinois foaled horse" also means a foal born in Illinois of a mare purchased at public auction subsequent to the mare entering this State prior to February 1 of the foaling year providing the mare is owned solely by one or more Illinois residents or an Illinois entity that is entirely owned by one or more Illinois residents.

(l) The Department of Agriculture shall, by rule, with the advice and assistance of the Illinois Thoroughbred Breeders Fund Advisory Board:

(1) Qualify stallions for Illinois breeding; such stallions to stand for service within the State of Illinois at the time of a foal's conception. Such stallion must not stand for service at any place outside the State of Illinois during the calendar year in which the foal is conceived. The Department of Agriculture may assess and collect application fees for the registration of Illinois-eligible stallions. All fees collected are to be paid into the Illinois Thoroughbred Breeders Fund.

(2) Provide for the registration of Illinois conceived and foaled horses and Illinois foaled horses. No such horse shall compete in the races limited to Illinois conceived and foaled horses or Illinois foaled horses or both unless registered with the Department of Agriculture. The Department of Agriculture may prescribe such forms as are necessary to determine the eligibility of such horses. The Department of Agriculture may assess and collect application fees for the registration of Illinois-eligible foals. All fees collected are to be paid into the Illinois Thoroughbred Breeders Fund. No person shall knowingly prepare or cause preparation of an application for registration of such foals containing false information.

(m) The Department of Agriculture, with the advice and assistance of the Illinois Thoroughbred Breeders Fund Advisory Board, shall provide that certain races limited to Illinois conceived and foaled and Illinois foaled horses be stakes races and determine the total amount of stakes and awards to be paid to the owners of the winning horses in such races.

In determining the stakes races and the amount of awards for such races, the Department of Agriculture shall consider factors, including but not limited to, the amount of money appropriated for the Illinois Thoroughbred Breeders Fund program, organization licensees' contributions, availability of stakes caliber horses as demonstrated by past performances, whether the race can be coordinated into the proposed racing dates within organization licensees' racing dates, opportunity for colts and fillies and various age groups to race, public wagering on such races, and the previous racing schedule.

(n) The Board and the organizational licensee shall notify the Department of the conditions and minimum purses for races limited to Illinois conceived and foaled and Illinois foaled horses conducted for each organizational licensee conducting a thoroughbred racing meeting. The Department of Agriculture with the advice and assistance of the Illinois Thoroughbred Breeders Fund Advisory Board may allocate monies for purse supplements for such races. In determining whether to allocate money and the amount, the Department of Agriculture shall consider factors, including but not limited to, the amount of money appropriated for the Illinois Thoroughbred Breeders Fund program, the number of races that may occur, and the organizational licensee's purse structure.

(o) In order to improve the breeding quality of thoroughbred horses in the State, the General Assembly recognizes that existing provisions of this Section to encourage such quality breeding need to be revised and strengthened. As such, a Thoroughbred Breeder's Program Task Force is to be appointed by the Governor by September 1, 1999 to make recommendations to the General Assembly by no later than March 1, 2000. This task force is to be composed of 2 representatives from the Illinois Thoroughbred Breeders and Owners Foundation, 2 from the Illinois Thoroughbred Horsemen's Association, 3 from Illinois race tracks operating thoroughbred race meets for an average of at least 30 days in the past 3 years, the Director of Agriculture, the Executive Director of the Racing Board, who shall serve as Chairman.

(Source: P.A. 91-40, eff. 6-25-99.)

Section 1200. The Riverboat Gambling Act is amended by changing Sections 4, 5, and 13 and by adding Section 5.5 as follows:

(230 ILCS 10/4) (from Ch. 120, par. 2404)

Sec. 4. Definitions. As used in this Act:

(a) "Board" means the Illinois Gaming Board.

(b) "Occupational license" means a license issued by the Board to a person or entity to perform an occupation which the Board has identified as requiring a license to engage in riverboat gambling in Illinois.

(c) "Gambling game" includes, but is not limited to, baccarat, twenty-one, poker, craps, slot machine, video game of chance, roulette wheel, klondike table, punchboard, faro layout, keno layout, numbers ticket, push card, jar ticket, or pull tab which is authorized by the Board as a wagering device under this Act.

(d) "Riverboat" means a self-propelled excursion boat, a permanently moored barge, or permanently moored barges that are permanently fixed together to operate as one vessel, on which lawful gambling is authorized and licensed as provided in this Act.

(e) "Managers license" means a license issued by the Board to a person or entity to manage gambling operations conducted by the State pursuant to Section 7.3.

(f) "Dock" means the location where a riverboat moors for the purpose of embarking passengers for and disembarking passengers from the riverboat.

(g) "Gross receipts" means the total amount of money exchanged for the purchase of chips, tokens or electronic cards by riverboat patrons.

(h) "Adjusted gross receipts" means the gross receipts less winnings paid to wagerers.

(i) "Cheat" means to alter the selection of criteria which determine the result of a gambling game or the amount or frequency of payment in a gambling game.

(j) ~~(Blank). "Department" means the Department of Revenue.~~

(k) "Gambling operation" means the conduct of authorized gambling games upon a riverboat.

(l) "License bid" means the lump sum amount of money that an applicant bids and agrees to pay the State in return for an owners license that is re-issued on or after July 1, 2003.

(m) The terms "minority person" and "female" shall have the same meaning as defined in Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.

(Source: P.A. 95-331, eff. 8-21-07.)

(230 ILCS 10/5) (from Ch. 120, par. 2405)

Sec. 5. Gaming Board.

(a) (1) There is hereby established ~~the within the Department of Revenue an~~ Illinois Gaming Board, which shall have the powers and duties specified in this Act, and all other powers necessary and proper to fully and effectively execute this Act for the purpose of administering, regulating, and enforcing the system of riverboat gambling established by this Act. Its jurisdiction shall extend under this Act to every person, association, corporation, partnership and trust involved in riverboat gambling operations in the State of Illinois.

(2) The Board shall consist of 5 members to be appointed by the Governor with the advice and consent of the Senate, one of whom shall be designated by the Governor to be chairman. Each member shall have a reasonable knowledge of the practice, procedure and principles of gambling operations. Each member shall either be a resident of Illinois or shall certify that he will become a resident of Illinois before taking office. At least one member shall be experienced in law enforcement and criminal investigation, at least one member shall be a certified public accountant experienced in accounting and auditing, and at least one member shall be a lawyer licensed to practice law in Illinois.

(3) The terms of office of the Board members shall be 3 years, except that the terms of office of the initial Board members appointed pursuant to this Act will commence from the effective date of this Act and run as follows: one for a term ending July 1, 1991, 2 for a term ending July 1, 1992, and 2 for a term ending July 1, 1993. Upon the expiration of the foregoing terms, the successors of such members shall serve a term for 3 years and until their successors are appointed and qualified for like terms. Vacancies in the Board shall be filled for the unexpired term in like manner as original appointments. Each member of the Board shall be eligible for reappointment at the discretion of the Governor with the advice and consent of the Senate.

(4) Each member of the Board shall receive \$300 for each day the Board meets and for each day the member conducts any hearing pursuant to this Act. Each member of the Board shall also be reimbursed for all actual and necessary expenses and disbursements incurred in the execution of official duties.

(5) No person shall be appointed a member of the Board or continue to be a member of the Board who is, or whose spouse, child or parent is, a member of the board of directors of, or a person financially interested in, any gambling operation subject to the jurisdiction of this Board, or any race track, race meeting, racing association or the operations thereof subject to the jurisdiction of the Illinois Racing Board. No Board member shall hold any other public office for which he shall receive compensation other than necessary travel or other incidental expenses. No person shall be a member of the Board who is not of good moral character or who has been convicted of, or is under indictment for, a felony under the laws of Illinois or any other state, or the United States.

(6) Any member of the Board may be removed by the Governor for neglect of duty, misfeasance, malfeasance, or nonfeasance in office.

(7) Before entering upon the discharge of the duties of his office, each member of the Board shall take an oath that he will faithfully execute the duties of his office according to the laws of the State and the rules and regulations adopted therewith and shall give bond to the State of Illinois, approved by the Governor, in the sum of \$25,000. Every such bond, when duly executed and approved, shall be recorded in the office of the Secretary of State. Whenever the Governor determines that the bond of any member of the Board has become or is likely to become invalid or insufficient, he shall require such member forthwith to renew his bond, which is to be approved by the Governor. Any member of the Board who fails to take oath and give bond within 30 days from the date of his appointment, or who fails to renew his bond within 30 days after it is demanded by the Governor, shall be guilty of neglect of duty and may be removed by the Governor. The cost of any bond given by any member of the Board under this Section shall be taken to be a part of the necessary expenses of the Board.

(8) ~~The~~ Upon the request of the Board, ~~the Department~~ shall employ such personnel as may be necessary to carry out the functions of the Board. No person shall be employed to serve the Board who is, or whose spouse, parent or child is, an official of, or has a financial interest in or financial relation with, any operator engaged in gambling operations within this State or any organization engaged in conducting horse racing within this State. Any employee violating these prohibitions shall be subject to termination of employment.

(9) An Administrator shall perform any and all duties that the Board shall assign him. The salary of the Administrator shall be determined by the Board ~~and approved by the Director of the Department~~ and, in addition, he shall be reimbursed for all actual and necessary expenses incurred by him in discharge of his official duties. The Administrator shall keep records of all proceedings of the Board and shall preserve all records, books, documents and other papers belonging to the Board or entrusted to its care. The Administrator shall devote his full time to the duties of the office and shall not hold any other office or

employment.

(b) The Board shall have general responsibility for the implementation of this Act. Its duties include, without limitation, the following:

(1) To decide promptly and in reasonable order all license applications. Any party aggrieved by an action of the Board denying, suspending, revoking, restricting or refusing to renew a license may request a hearing before the Board. A request for a hearing must be made to the Board in writing within 5 days after service of notice of the action of the Board. Notice of the action of the Board shall be served either by personal delivery or by certified mail, postage prepaid, to the aggrieved party. Notice served by certified mail shall be deemed complete on the business day following the date of such mailing. The Board shall conduct all requested hearings promptly and in reasonable order;

(2) To conduct all hearings pertaining to civil violations of this Act or rules and regulations promulgated hereunder;

(3) To promulgate such rules and regulations as in its judgment may be necessary to protect or enhance the credibility and integrity of gambling operations authorized by this Act and the regulatory process hereunder;

(4) To provide for the establishment and collection of all license and registration fees and taxes imposed by this Act and the rules and regulations issued pursuant hereto. All such fees and taxes shall be deposited into the State Gaming Fund;

(5) To provide for the levy and collection of penalties and fines for the violation of provisions of this Act and the rules and regulations promulgated hereunder. All such fines and penalties shall be deposited into the Education Assistance Fund, created by Public Act 86-0018, of the State of Illinois;

(6) To be present through its inspectors and agents any time gambling operations are conducted on any riverboat for the purpose of certifying the revenue thereof, receiving complaints from the public, and conducting such other investigations into the conduct of the gambling games and the maintenance of the equipment as from time to time the Board may deem necessary and proper;

(7) To review and rule upon any complaint by a licensee regarding any investigative procedures of the State which are unnecessarily disruptive of gambling operations. The need to inspect and investigate shall be presumed at all times. The disruption of a licensee's operations shall be proved by clear and convincing evidence, and establish that: (A) the procedures had no reasonable law enforcement purposes, and (B) the procedures were so disruptive as to unreasonably inhibit gambling operations;

(8) To hold at least one meeting each quarter of the fiscal year. In addition, special meetings may be called by the Chairman or any 2 Board members upon 72 hours written notice to each member. All Board meetings shall be subject to the Open Meetings Act. Three members of the Board shall constitute a quorum, and 3 votes shall be required for any final determination by the Board. The Board shall keep a complete and accurate record of all its meetings. A majority of the members of the Board shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power which this Act requires the Board members to transact, perform or exercise en banc, except that, upon order of the Board, one of the Board members or an administrative law judge designated by the Board may conduct any hearing provided for under this Act or by Board rule and may recommend findings and decisions to the Board. The Board member or administrative law judge conducting such hearing shall have all powers and rights granted to the Board in this Act. The record made at the time of the hearing shall be reviewed by the Board, or a majority thereof, and the findings and decision of the majority of the Board shall constitute the order of the Board in such case;

(9) To maintain records which are separate and distinct from the records of any other State board or commission. Such records shall be available for public inspection and shall accurately reflect all Board proceedings;

(10) To file a written annual report with the Governor on or before March 1 each year and such additional reports as the Governor may request. The annual report shall include a statement of receipts and disbursements by the Board, actions taken by the Board, and any additional information and recommendations which the Board may deem valuable or which the Governor may request;

(11) (Blank); and

(12) To assume responsibility for the administration and enforcement of the Bingo License and Tax Act, the Charitable Games Act, and the Pull Tabs and Jar Games Act if such responsibility is delegated to it by the Director of Revenue.

(c) The Board shall have jurisdiction over and shall supervise all gambling operations governed by this

Act. The Board shall have all powers necessary and proper to fully and effectively execute the provisions of this Act, including, but not limited to, the following:

(1) To investigate applicants and determine the eligibility of applicants for licenses and to select among competing applicants the applicants which best serve the interests of the citizens of Illinois.

(2) To have jurisdiction and supervision over all riverboat gambling operations in this State and all persons on riverboats where gambling operations are conducted.

(3) To promulgate rules and regulations for the purpose of administering the provisions of this Act and to prescribe rules, regulations and conditions under which all riverboat gambling in the State shall be conducted. Such rules and regulations are to provide for the prevention of practices detrimental to the public interest and for the best interests of riverboat gambling, including rules and regulations regarding the inspection of such riverboats and the review of any permits or licenses necessary to operate a riverboat under any laws or regulations applicable to riverboats, and to impose penalties for violations thereof.

(4) To enter the office, riverboats, facilities, or other places of business of a licensee, where evidence of the compliance or noncompliance with the provisions of this Act is likely to be found.

(5) To investigate alleged violations of this Act or the rules of the Board and to take appropriate disciplinary action against a licensee or a holder of an occupational license for a violation, or institute appropriate legal action for enforcement, or both.

(6) To adopt standards for the licensing of all persons under this Act, as well as for electronic or mechanical gambling games, and to establish fees for such licenses.

(7) To adopt appropriate standards for all riverboats and facilities.

(8) To require that the records, including financial or other statements of any licensee under this Act, shall be kept in such manner as prescribed by the Board and that any such licensee involved in the ownership or management of gambling operations submit to the Board an annual balance sheet and profit and loss statement, list of the stockholders or other persons having a 1% or greater beneficial interest in the gambling activities of each licensee, and any other information the Board deems necessary in order to effectively administer this Act and all rules, regulations, orders and final decisions promulgated under this Act.

(9) To conduct hearings, issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records and other pertinent documents in accordance with the Illinois Administrative Procedure Act, and to administer oaths and affirmations to the witnesses, when, in the judgment of the Board, it is necessary to administer or enforce this Act or the Board rules.

(10) To prescribe a form to be used by any licensee involved in the ownership or management of gambling operations as an application for employment for their employees.

(11) To revoke or suspend licenses, as the Board may see fit and in compliance with applicable laws of the State regarding administrative procedures, and to review applications for the renewal of licenses. The Board may suspend an owners license, without notice or hearing upon a determination that the safety or health of patrons or employees is jeopardized by continuing a riverboat's operation. The suspension may remain in effect until the Board determines that the cause for suspension has been abated. The Board may revoke the owners license upon a determination that the owner has not made satisfactory progress toward abating the hazard.

(12) To eject or exclude or authorize the ejection or exclusion of, any person from riverboat gambling facilities where such person is in violation of this Act, rules and regulations thereunder, or final orders of the Board, or where such person's conduct or reputation is such that his presence within the riverboat gambling facilities may, in the opinion of the Board, call into question the honesty and integrity of the gambling operations or interfere with orderly conduct thereof; provided that the propriety of such ejection or exclusion is subject to subsequent hearing by the Board.

(13) To require all licensees of gambling operations to utilize a cashless wagering system whereby all players' money is converted to tokens, electronic cards, or chips which shall be used only for wagering in the gambling establishment.

(14) (Blank).

(15) To suspend, revoke or restrict licenses, to require the removal of a licensee or an employee of a licensee for a violation of this Act or a Board rule or for engaging in a fraudulent practice, and to impose civil penalties of up to \$5,000 against individuals and up to \$10,000 or an amount equal to the daily gross receipts, whichever is larger, against licensees for each violation of any

provision of the Act, any rules adopted by the Board, any order of the Board or any other action which, in the Board's discretion, is a detriment or impediment to riverboat gambling operations.

(16) To hire employees to gather information, conduct investigations and carry out any other tasks contemplated under this Act.

(17) To establish minimum levels of insurance to be maintained by licensees.

(18) To authorize a licensee to sell or serve alcoholic liquors, wine or beer as defined in the Liquor Control Act of 1934 on board a riverboat and to have exclusive authority to establish the hours for sale and consumption of alcoholic liquor on board a riverboat, notwithstanding any provision of the Liquor Control Act of 1934 or any local ordinance, and regardless of whether the riverboat makes excursions. The establishment of the hours for sale and consumption of alcoholic liquor on board a riverboat is an exclusive power and function of the State. A home rule unit may not establish the hours for sale and consumption of alcoholic liquor on board a riverboat. This amendatory Act of 1991 is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(19) After consultation with the U.S. Army Corps of Engineers, to establish binding emergency orders upon the concurrence of a majority of the members of the Board regarding the navigability of water, relative to excursions, in the event of extreme weather conditions, acts of God or other extreme circumstances.

(20) To delegate the execution of any of its powers under this Act for the purpose of administering and enforcing this Act and its rules and regulations hereunder.

(21) To take any other action as may be reasonable or appropriate to enforce this Act and rules and regulations hereunder.

(d) The Board may seek and shall receive the cooperation of the Department of State Police in conducting background investigations of applicants and in fulfilling its responsibilities under this Section. Costs incurred by the Department of State Police as a result of such cooperation shall be paid by the Board in conformance with the requirements of Section 2605-400 of the Department of State Police Law (20 ILCS 2605/2605-400).

(e) The Board must authorize to each investigator and to any other employee of the Board exercising the powers of a peace officer a distinct badge that, on its face, (i) clearly states that the badge is authorized by the Board and (ii) contains a unique identifying number. No other badge shall be authorized by the Board.

(Source: P.A. 91-40, eff. 1-1-00; 91-239, eff. 1-1-00; 91-883, eff. 1-1-01.)

(230 ILCS 10/5.5 new)

Sec. 5.5. Separation from Department of Revenue. On the effective date of this amendatory Act of the 96th General Assembly, all of the powers, duties, assets, liabilities, employees, contracts, property, records, pending business, and unexpended appropriations of the Department of Revenue related to the administration and enforcement of this Act are transferred to the Illinois Gaming Board, except as specifically provided in this Act.

The status and rights of the transferred employees, and the rights of the State of Illinois and its agencies, under the Personnel Code and applicable collective bargaining agreements or under any pension, retirement, or annuity plan are not affected by that transfer or by any other provision of this amendatory Act of the 96th General Assembly.

This amendatory Act of the 96th General Assembly supersedes Executive Order 09-05, filed April 1, 2009.

(230 ILCS 10/13) (from Ch. 120, par. 2413)

Sec. 13. Wagering tax; rate; distribution.

(a) Until January 1, 1998, a tax is imposed on the adjusted gross receipts received from gambling games authorized under this Act at the rate of 20%.

(a-1) From January 1, 1998 until July 1, 2002, a privilege tax is imposed on persons engaged in the business of conducting riverboat gambling operations, based on the adjusted gross receipts received by a licensed owner from gambling games authorized under this Act at the following rates:

15% of annual adjusted gross receipts up to and including \$25,000,000;

20% of annual adjusted gross receipts in excess of \$25,000,000 but not exceeding \$50,000,000;

25% of annual adjusted gross receipts in excess of \$50,000,000 but not exceeding \$75,000,000;

30% of annual adjusted gross receipts in excess of \$75,000,000 but not exceeding \$100,000,000;

35% of annual adjusted gross receipts in excess of \$100,000,000.

(a-2) From July 1, 2002 until July 1, 2003, a privilege tax is imposed on persons engaged in the business of conducting riverboat gambling operations, other than licensed managers conducting riverboat gambling operations on behalf of the State, based on the adjusted gross receipts received by a licensed owner from gambling games authorized under this Act at the following rates:

- 15% of annual adjusted gross receipts up to and including \$25,000,000;
- 22.5% of annual adjusted gross receipts in excess of \$25,000,000 but not exceeding \$50,000,000;
- 27.5% of annual adjusted gross receipts in excess of \$50,000,000 but not exceeding \$75,000,000;
- 32.5% of annual adjusted gross receipts in excess of \$75,000,000 but not exceeding \$100,000,000;
- 37.5% of annual adjusted gross receipts in excess of \$100,000,000 but not exceeding \$150,000,000;
- 45% of annual adjusted gross receipts in excess of \$150,000,000 but not exceeding \$200,000,000;
- 50% of annual adjusted gross receipts in excess of \$200,000,000.

(a-3) Beginning July 1, 2003, a privilege tax is imposed on persons engaged in the business of conducting riverboat gambling operations, other than licensed managers conducting riverboat gambling operations on behalf of the State, based on the adjusted gross receipts received by a licensed owner from gambling games authorized under this Act at the following rates:

- 15% of annual adjusted gross receipts up to and including \$25,000,000;
- 27.5% of annual adjusted gross receipts in excess of \$25,000,000 but not exceeding \$37,500,000;
- 32.5% of annual adjusted gross receipts in excess of \$37,500,000 but not exceeding \$50,000,000;
- 37.5% of annual adjusted gross receipts in excess of \$50,000,000 but not exceeding \$75,000,000;
- 45% of annual adjusted gross receipts in excess of \$75,000,000 but not exceeding \$100,000,000;
- 50% of annual adjusted gross receipts in excess of \$100,000,000 but not exceeding \$250,000,000;
- 70% of annual adjusted gross receipts in excess of \$250,000,000.

An amount equal to the amount of wagering taxes collected under this subsection (a-3) that are in addition to the amount of wagering taxes that would have been collected if the wagering tax rates under subsection (a-2) were in effect shall be paid into the Common School Fund.

The privilege tax imposed under this subsection (a-3) shall no longer be imposed beginning on the earlier of (i) July 1, 2005; (ii) the first date after June 20, 2003 that riverboat gambling operations are conducted pursuant to a dormant license; or (iii) the first day that riverboat gambling operations are conducted under the authority of an owners license that is in addition to the 10 owners licenses initially authorized under this Act. For the purposes of this subsection (a-3), the term "dormant license" means an owners license that is authorized by this Act under which no riverboat gambling operations are being conducted on June 20, 2003.

(a-4) Beginning on the first day on which the tax imposed under subsection (a-3) is no longer imposed, a privilege tax is imposed on persons engaged in the business of conducting riverboat gambling operations, other than licensed managers conducting riverboat gambling operations on behalf of the State, based on the adjusted gross receipts received by a licensed owner from gambling games authorized under this Act at the following rates:

- 15% of annual adjusted gross receipts up to and including \$25,000,000;
- 22.5% of annual adjusted gross receipts in excess of \$25,000,000 but not exceeding \$50,000,000;
- 27.5% of annual adjusted gross receipts in excess of \$50,000,000 but not exceeding \$75,000,000;
- 32.5% of annual adjusted gross receipts in excess of \$75,000,000 but not exceeding \$100,000,000;
- 37.5% of annual adjusted gross receipts in excess of \$100,000,000 but not exceeding \$150,000,000;

45% of annual adjusted gross receipts in excess of \$150,000,000 but not exceeding \$200,000,000;

50% of annual adjusted gross receipts in excess of \$200,000,000.

(a-8) Riverboat gambling operations conducted by a licensed manager on behalf of the State are not subject to the tax imposed under this Section.

(a-10) The taxes imposed by this Section shall be paid by the licensed owner to the Board not later than 3:00 o'clock p.m. of the day after the day when the wagers were made.

(a-15) If the privilege tax imposed under subsection (a-3) is no longer imposed pursuant to item (i) of the last paragraph of subsection (a-3), then by June 15 of each year, each owners licensee, other than an owners licensee that admitted 1,000,000 persons or fewer in calendar year 2004, must, in addition to the payment of all amounts otherwise due under this Section, pay to the Board a reconciliation payment in the amount, if any, by which the licensed owner's base amount exceeds the amount of net privilege tax paid by the licensed owner to the Board in the then current State fiscal year. A licensed owner's net privilege tax obligation due for the balance of the State fiscal year shall be reduced up to the total of the amount paid by the licensed owner in its June 15 reconciliation payment. The obligation imposed by this subsection (a-15) is binding on any person, firm, corporation, or other entity that acquires an ownership interest in any such owners license. The obligation imposed under this subsection (a-15) terminates on the earliest of: (i) July 1, 2007, (ii) the first day after the effective date of this amendatory Act of the 94th General Assembly that riverboat gambling operations are conducted pursuant to a dormant license, (iii) the first day that riverboat gambling operations are conducted under the authority of an owners license that is in addition to the 10 owners licenses initially authorized under this Act, or (iv) the first day that a licensee under the Illinois Horse Racing Act of 1975 conducts gaming operations with slot machines or other electronic gaming devices. The Board must reduce the obligation imposed under this subsection (a-15) by an amount the Board deems reasonable for any of the following reasons: (A) an act or acts of God, (B) an act of bioterrorism or terrorism or a bioterrorism or terrorism threat that was investigated by a law enforcement agency, or (C) a condition beyond the control of the owners licensee that does not result from any act or omission by the owners licensee or any of its agents and that poses a hazardous threat to the health and safety of patrons. If an owners licensee pays an amount in excess of its liability under this Section, the Board shall apply the overpayment to future payments required under this Section.

For purposes of this subsection (a-15):

"Act of God" means an incident caused by the operation of an extraordinary force that cannot be foreseen, that cannot be avoided by the exercise of due care, and for which no person can be held liable.

"Base amount" means the following:

For a riverboat in Alton, \$31,000,000.

For a riverboat in East Peoria, \$43,000,000.

For the Empress riverboat in Joliet, \$86,000,000.

For a riverboat in Metropolis, \$45,000,000.

For the Harrah's riverboat in Joliet, \$114,000,000.

For a riverboat in Aurora, \$86,000,000.

For a riverboat in East St. Louis, \$48,500,000.

For a riverboat in Elgin, \$198,000,000.

"Dormant license" has the meaning ascribed to it in subsection (a-3).

"Net privilege tax" means all privilege taxes paid by a licensed owner to the Board under this Section, less all payments made from the State Gaming Fund pursuant to subsection (b) of this Section.

The changes made to this subsection (a-15) by Public Act 94-839 are intended to restate and clarify the intent of Public Act 94-673 with respect to the amount of the payments required to be made under this subsection by an owners licensee to the Board.

(b) Until January 1, 1998, 25% of the tax revenue deposited in the State Gaming Fund under this Section shall be paid, subject to appropriation by the General Assembly, to the unit of local government which is designated as the home dock of the riverboat. Beginning January 1, 1998, from the tax revenue deposited in the State Gaming Fund under this Section, an amount equal to 5% of adjusted gross receipts generated by a riverboat shall be paid monthly, subject to appropriation by the General Assembly, to the unit of local government that is designated as the home dock of the riverboat. From the tax revenue deposited in the State Gaming Fund pursuant to riverboat gambling operations conducted by a licensed manager on behalf of the State, an amount equal to 5% of adjusted gross receipts generated pursuant to those riverboat gambling operations shall be paid monthly, subject to appropriation by the General Assembly, to the unit of local government that is designated as the home dock of the riverboat upon which those riverboat gambling

operations are conducted.

(c) Appropriations, as approved by the General Assembly, may be made from the State Gaming Fund to the Board, the Department of Revenue, and the Department of State Police for the administration and enforcement of this Act, or to the Department of Human Services for the administration of programs to treat problem gambling.

(c-5) Before May 26, 2006 (the effective date of Public Act 94-804) and beginning on the effective date of this amendatory Act of the 95th General Assembly, unless any organization licensee under the Illinois Horse Racing Act of 1975 begins to operate a slot machine or video game of chance under the Illinois Horse Racing Act of 1975 or this Act, after the payments required under subsections (b) and (c) have been made, an amount equal to 15% of the adjusted gross receipts of (1) an owners licensee that relocates pursuant to Section 11.2, (2) an owners licensee conducting riverboat gambling operations pursuant to an owners license that is initially issued after June 25, 1999, or (3) the first riverboat gambling operations conducted by a licensed manager on behalf of the State under Section 7.3, whichever comes first, shall be paid from the State Gaming Fund into the Horse Racing Equity Fund.

(c-10) Each year the General Assembly shall appropriate from the General Revenue Fund to the Education Assistance Fund an amount equal to the amount paid into the Horse Racing Equity Fund pursuant to subsection (c-5) in the prior calendar year.

(c-15) After the payments required under subsections (b), (c), and (c-5) have been made, an amount equal to 2% of the adjusted gross receipts of (1) an owners licensee that relocates pursuant to Section 11.2, (2) an owners licensee conducting riverboat gambling operations pursuant to an owners license that is initially issued after June 25, 1999, or (3) the first riverboat gambling operations conducted by a licensed manager on behalf of the State under Section 7.3, whichever comes first, shall be paid, subject to appropriation from the General Assembly, from the State Gaming Fund to each home rule county with a population of over 3,000,000 inhabitants for the purpose of enhancing the county's criminal justice system.

(c-20) Each year the General Assembly shall appropriate from the General Revenue Fund to the Education Assistance Fund an amount equal to the amount paid to each home rule county with a population of over 3,000,000 inhabitants pursuant to subsection (c-15) in the prior calendar year.

(c-25) After the payments required under subsections (b), (c), (c-5) and (c-15) have been made, an amount equal to 2% of the adjusted gross receipts of (1) an owners licensee that relocates pursuant to Section 11.2, (2) an owners licensee conducting riverboat gambling operations pursuant to an owners license that is initially issued after June 25, 1999, or (3) the first riverboat gambling operations conducted by a licensed manager on behalf of the State under Section 7.3, whichever comes first, shall be paid from the State Gaming Fund to Chicago State University.

(d) From time to time, the Board shall transfer the remainder of the funds generated by this Act into the Education Assistance Fund, created by Public Act 86-0018, of the State of Illinois.

(e) Nothing in this Act shall prohibit the unit of local government designated as the home dock of the riverboat from entering into agreements with other units of local government in this State or in other states to share its portion of the tax revenue.

(f) To the extent practicable, the Board shall administer and collect the wagering taxes imposed by this Section in a manner consistent with the provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 8, 9, and 10 of the Retailers' Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act.

(Source: P.A. 94-673, eff. 8-23-05; 94-804, eff. 5-26-06; 94-839, eff. 6-6-06; 95-331, eff. 8-21-07; 95-1008, eff. 12-15-08.)

Section 1210. The Liquor Control Act of 1934 is amended by changing Sections 3-12, 5-1, 6-8, 6-29.1, 7A-2, 7A-3, 7A-4, 7A-5, and 7A-6 and by adding Section 3-15 as follows:

(235 ILCS 5/3-12) (from Ch. 43, par. 108)

Sec. 3-12. Powers and duties of State Commission.

(a) The State commission shall have the following powers, functions and duties:

(1) To receive applications and to issue licenses to manufacturers, foreign importers, importing distributors, distributors, non-resident dealers, on premise consumption retailers, off premise sale retailers, special event retailer licensees, special use permit licenses, auction liquor licenses, brew pubs, caterer retailers, non-beverage users, railroads, including owners and lessees of sleeping, dining and cafe cars, airplanes, boats, brokers, and wine maker's premises licensees in accordance with the provisions of this Act, and to suspend or revoke such licenses upon the State commission's determination, upon notice after hearing, that a licensee has violated any provision of this Act or any rule or regulation issued pursuant thereto and in effect for 30 days prior to such violation. Except in the case

of an action taken pursuant to a violation of Section 6-3, 6-5, or 6-9, any action by the State Commission to suspend or revoke a licensee's license may be limited to the license for the specific premises where the violation occurred.

In lieu of suspending or revoking a license, the commission may impose a fine, upon the State commission's determination and notice after hearing, that a licensee has violated any provision of this Act or any rule or regulation issued pursuant thereto and in effect for 30 days prior to such violation. The fine imposed under this paragraph may not exceed \$500 for each violation. Each day that the activity, which gave rise to the original fine, continues is a separate violation. The maximum fine that may be levied against any licensee, for the period of the license, shall not exceed \$20,000. The maximum penalty that may be imposed on a licensee for selling a bottle of alcoholic liquor with a foreign object in it or serving from a bottle of alcoholic liquor with a foreign object in it shall be the destruction of that bottle of alcoholic liquor for the first 10 bottles so sold or served from by the licensee. For the eleventh bottle of alcoholic liquor and for each third bottle thereafter sold or served from by the licensee with a foreign object in it, the maximum penalty that may be imposed on the licensee is the destruction of the bottle of alcoholic liquor and a fine of up to \$50.

(2) To adopt such rules and regulations consistent with the provisions of this Act which shall be necessary to carry on its functions and duties to the end that the health, safety and welfare of the People of the State of Illinois shall be protected and temperance in the consumption of alcoholic liquors shall be fostered and promoted and to distribute copies of such rules and regulations to all licensees affected thereby.

(3) To call upon other administrative departments of the State, county and municipal governments, county and city police departments and upon prosecuting officers for such information and assistance as it deems necessary in the performance of its duties.

(4) To recommend to local commissioners rules and regulations, not inconsistent with the law, for the distribution and sale of alcoholic liquors throughout the State.

(5) To inspect, or cause to be inspected, any premises in this State where alcoholic liquors are manufactured, distributed, warehoused, or sold.

(5.1) Upon receipt of a complaint or upon having knowledge that any person is engaged in business as a manufacturer, importing distributor, distributor, or retailer without a license or valid license, to notify the local liquor authority, file a complaint with the State's Attorney's Office of the county where the incident occurred, or initiate an investigation with the appropriate law enforcement officials.

(5.2) To issue a cease and desist notice to persons shipping alcoholic liquor into this State from a point outside of this State if the shipment is in violation of this Act.

(5.3) To receive complaints from licensees, local officials, law enforcement agencies, organizations, and persons stating that any licensee has been or is violating any provision of this Act or the rules and regulations issued pursuant to this Act. Such complaints shall be in writing, signed and sworn to by the person making the complaint, and shall state with specificity the facts in relation to the alleged violation. If the Commission has reasonable grounds to believe that the complaint substantially alleges a violation of this Act or rules and regulations adopted pursuant to this Act, it shall conduct an investigation. If, after conducting an investigation, the Commission is satisfied that the alleged violation did occur, it shall proceed with disciplinary action against the licensee as provided in this Act.

(6) To hear and determine appeals from orders of a local commission in accordance with the provisions of this Act, as hereinafter set forth. Hearings under this subsection shall be held in Springfield or Chicago, at whichever location is the more convenient for the majority of persons who are parties to the hearing.

(7) The commission shall establish uniform systems of accounts to be kept by all retail licensees having more than 4 employees, and for this purpose the commission may classify all retail licensees having more than 4 employees and establish a uniform system of accounts for each class and prescribe the manner in which such accounts shall be kept. The commission may also prescribe the forms of accounts to be kept by all retail licensees having more than 4 employees, including but not limited to accounts of earnings and expenses and any distribution, payment, or other distribution of earnings or assets, and any other forms, records and memoranda which in the judgment of the commission may be necessary or appropriate to carry out any of the provisions of this Act, including but not limited to such forms, records and memoranda as will readily and accurately disclose at all times the beneficial ownership of such retail licensed business. The accounts, forms, records and memoranda shall be available at all reasonable times for inspection by authorized representatives of the State commission or

by any local liquor control commissioner or his or her authorized representative. The commission, may, from time to time, alter, amend or repeal, in whole or in part, any uniform system of accounts, or the form and manner of keeping accounts.

(8) In the conduct of any hearing authorized to be held by the commission, to appoint, at the commission's discretion, hearing officers to conduct hearings involving complex issues or issues that will require a protracted period of time to resolve, to examine, or cause to be examined, under oath, any licensee, and to examine or cause to be examined the books and records of such licensee; to hear testimony and take proof material for its information in the discharge of its duties hereunder; to administer or cause to be administered oaths; for any such purpose to issue subpoena or subpoenas to require the attendance of witnesses and the production of books, which shall be effective in any part of this State, and to adopt rules to implement its powers under this paragraph (8).

Any Circuit Court may by order duly entered, require the attendance of witnesses and the production of relevant books subpoenaed by the State commission and the court may compel obedience to its order by proceedings for contempt.

(9) To investigate the administration of laws in relation to alcoholic liquors in this and other states and any foreign countries, and to recommend from time to time to the Governor and through him or her to the legislature of this State, such amendments to this Act, if any, as it may think desirable and as will serve to further the general broad purposes contained in Section 1-2 hereof.

(10) To adopt such rules and regulations consistent with the provisions of this Act which shall be necessary for the control, sale or disposition of alcoholic liquor damaged as a result of an accident, wreck, flood, fire or other similar occurrence.

(11) To develop industry educational programs related to responsible serving and selling, particularly in the areas of overserving consumers and illegal underage purchasing and consumption of alcoholic beverages.

(11.1) To license persons providing education and training to alcohol beverage sellers and servers under the Beverage Alcohol Sellers and Servers Education and Training (BASSET) programs and to develop and administer a public awareness program in Illinois to reduce or eliminate the illegal purchase and consumption of alcoholic beverage products by persons under the age of 21. Application for a license shall be made on forms provided by the State Commission.

(12) To develop and maintain a repository of license and regulatory information.

(13) On or before January 15, 1994, the Commission shall issue a written report to the Governor and General Assembly that is to be based on a comprehensive study of the impact on and implications for the State of Illinois of Section 1926 of the Federal ADAMHA Reorganization Act of 1992 (Public Law 102-321). This study shall address the extent to which Illinois currently complies with the provisions of P.L. 102-321 and the rules promulgated pursuant thereto.

As part of its report, the Commission shall provide the following essential information:

- (i) the number of retail distributors of tobacco products, by type and geographic area, in the State;
- (ii) the number of reported citations and successful convictions, categorized by type and location of retail distributor, for violation of the Sale of Tobacco to Minors Act and the Smokeless Tobacco Limitation Act;
- (iii) the extent and nature of organized educational and governmental activities that are intended to promote, encourage or otherwise secure compliance with any Illinois laws that prohibit the sale or distribution of tobacco products to minors; and
- (iv) the level of access and availability of tobacco products to individuals under the age of 18.

To obtain the data necessary to comply with the provisions of P.L. 102-321 and the requirements of this report, the Commission shall conduct random, unannounced inspections of a geographically and scientifically representative sample of the State's retail tobacco distributors.

The Commission shall consult with the Department of Public Health, the Department of Human Services, the Illinois State Police and any other executive branch agency, and private organizations that may have information relevant to this report.

The Commission may contract with the Food and Drug Administration of the U.S. Department of Health and Human Services to conduct unannounced investigations of Illinois tobacco vendors to determine compliance with federal laws relating to the illegal sale of cigarettes and smokeless tobacco products to persons under the age of 18.

(14) On or before April 30, 2008 and every 2 years thereafter, the Commission shall

present a written report to the Governor and the General Assembly that shall be based on a study of the impact of this amendatory Act of the 95th General Assembly on the business of soliciting, selling, and shipping wine from inside and outside of this State directly to residents of this State. As part of its report, the Commission shall provide all of the following information:

- (A) The amount of State excise and sales tax revenues generated.
- (B) The amount of licensing fees received.
- (C) The number of cases of wine shipped from inside and outside of this State directly to residents of this State.
- (D) The number of alcohol compliance operations conducted.
- (E) The number of winery shipper's licenses issued.
- (F) The number of each of the following: reported violations; cease and

desist notices issued by the Commission; notices of violations issued by the Commission ~~and to the Department of Revenue~~; and notices and complaints of violations to law enforcement officials, including, without limitation, the Illinois Attorney General and the U.S. Department of Treasury's Alcohol and Tobacco Tax and Trade Bureau.

(15) As a means to reduce the underage consumption of alcoholic liquors, the Commission shall conduct alcohol compliance operations to investigate whether businesses that are soliciting, selling, and shipping wine from inside or outside of this State directly to residents of this State are licensed by this State or are selling or attempting to sell wine to persons under 21 years of age in violation of this Act.

(16) The Commission shall, in addition to notifying any appropriate law enforcement agency, submit notices of complaints or violations of Sections 6-29 and 6-29.1 by persons who do not hold a winery shipper's license under this amendatory Act to the Illinois Attorney General and to the U.S. Department of Treasury's Alcohol and Tobacco Tax and Trade Bureau.

(17) (A) A person licensed to make wine under the laws of another state who has a winery shipper's license under this amendatory Act and annually produces less than 25,000 gallons of wine or a person who has a first-class or second-class wine manufacturer's license, a first-class or second-class wine-maker's license, or a limited wine manufacturer's license under this Act and annually produces less than 25,000 gallons of wine may make application to the Commission for a self-distribution exemption to allow the sale of not more than 5,000 gallons of the exemption holder's wine to retail licensees per year.

(B) In the application, which shall be sworn under penalty of perjury, such person shall state (1) the date it was established; (2) its volume of production and sales for each year since its establishment; (3) its efforts to establish distributor relationships; (4) that a self-distribution exemption is necessary to facilitate the marketing of its wine; and (5) that it will comply with the liquor and revenue laws of the United States, this State, and any other state where it is licensed.

(C) The Commission shall approve the application for a self-distribution exemption if such person: (1) is in compliance with State revenue and liquor laws; (2) is not a member of any affiliated group that produces more than 25,000 gallons of wine per annum or produces any other alcoholic liquor; (3) will not annually produce for sale more than 25,000 gallons of wine; and (4) will not annually sell more than 5,000 gallons of its wine to retail licensees.

(D) A self-distribution exemption holder shall annually certify to the Commission its production of wine in the previous 12 months and its anticipated production and sales for the next 12 months. The Commission may fine, suspend, or revoke a self-distribution exemption after a hearing if it finds that the exemption holder has made a material misrepresentation in its application, violated a revenue or liquor law of Illinois, exceeded production of 25,000 gallons of wine in any calendar year, or become part of an affiliated group producing more than 25,000 gallons of wine or any other alcoholic liquor.

(E) Except in hearings for violations of this Act or amendatory Act or a bona fide investigation by duly sworn law enforcement officials, the Commission, or its agents, the Commission shall maintain the production and sales information of a self-distribution exemption holder as confidential and shall not release such information to any person.

(F) The Commission shall issue regulations governing self-distribution exemptions consistent with this Section and this Act.

(G) Nothing in this subsection (17) shall prohibit a self-distribution exemption holder from entering into or simultaneously having a distribution agreement with a licensed Illinois distributor.

(H) It is the intent of this subsection (17) to promote and continue orderly markets. The General Assembly finds that in order to preserve Illinois' regulatory distribution system it is necessary to create an exception for smaller makers of wine as their wines are frequently adjusted in varietals, mixes, vintages, and taste to find and create market niches sometimes too small for distributor or importing distributor business strategies. Limited self-distribution rights will afford and allow smaller makers of wine access to the marketplace in order to develop a customer base without impairing the integrity of the 3-tier system.

(b) On or before April 30, 1999, the Commission shall present a written report to the Governor and the General Assembly that shall be based on a study of the impact of this amendatory Act of 1998 on the business of soliciting, selling, and shipping alcoholic liquor from outside of this State directly to residents of this State.

As part of its report, the Commission shall provide the following information:

(i) the amount of State excise and sales tax revenues generated as a result of this amendatory Act of 1998;

(ii) the amount of licensing fees received as a result of this amendatory Act of 1998;

(iii) the number of reported violations, the number of cease and desist notices issued by the Commission, the number of notices of violations issued to the Commission ~~Department of Revenue~~, and the number of notices and complaints of violations to law enforcement officials.

(Source: P.A. 95-634, eff. 6-1-08.)

(235 ILCS 5/3-15 new)

Sec. 3-15. Separation from Department of Revenue. On the effective date of this amendatory Act of the 96th General Assembly, all of the powers, duties, assets, liabilities, employees, contracts, property, records, pending business, and unexpended appropriations of the Department of Revenue related to the administration and enforcement of this Act are transferred to the Illinois Liquor Control Commission, except as specifically provided in this Act.

The status and rights of the transferred employees, and the rights of the State of Illinois and its agencies, under the Personnel Code and applicable collective bargaining agreements or under any pension, retirement, or annuity plan are not affected by that transfer or by any other provision of this amendatory Act of the 96th General Assembly.

This amendatory Act of the 96th General Assembly supersedes Executive Order 9 (2003).

(235 ILCS 5/5-1) (from Ch. 43, par. 115)

Sec. 5-1. Licenses issued by the Illinois Liquor Control Commission shall be of the following classes:

(a) Manufacturer's license - Class 1. Distiller, Class 2. Rectifier, Class 3. Brewer, Class 4. First Class Wine Manufacturer, Class 5. Second Class Wine Manufacturer, Class 6. First Class Winemaker, Class 7. Second Class Winemaker, Class 8. Limited Wine Manufacturer,

(b) Distributor's license,

(c) Importing Distributor's license,

(d) Retailer's license,

(e) Special Event Retailer's license (not-for-profit),

(f) Railroad license,

(g) Boat license,

(h) Non-Beverage User's license,

(i) Wine-maker's premises license,

(j) Airplane license,

(k) Foreign importer's license,

(l) Broker's license,

(m) Non-resident dealer's license,

(n) Brew Pub license,

(o) Auction liquor license,

(p) Caterer retailer license,

(q) Special use permit license,

(r) Winery shipper's license.

No person, firm, partnership, corporation, or other legal business entity that is engaged in the manufacturing of wine may concurrently obtain and hold a wine-maker's license and a wine manufacturer's license.

(a) A manufacturer's license shall allow the manufacture, importation in bulk, storage, distribution and sale of alcoholic liquor to persons without the State, as may be permitted by law and to licensees in this

State as follows:

Class 1. A Distiller may make sales and deliveries of alcoholic liquor to distillers, rectifiers, importing distributors, distributors and non-beverage users and to no other licensees.

Class 2. A Rectifier, who is not a distiller, as defined herein, may make sales and deliveries of alcoholic liquor to rectifiers, importing distributors, distributors, retailers and non-beverage users and to no other licensees.

Class 3. A Brewer may make sales and deliveries of beer to importing distributors, distributors, and to non-licensees, and to retailers provided the brewer obtains an importing distributor's license or distributor's license in accordance with the provisions of this Act.

Class 4. A first class wine-manufacturer may make sales and deliveries of up to 50,000 gallons of wine to manufacturers, importing distributors and distributors, and to no other licensees.

Class 5. A second class Wine manufacturer may make sales and deliveries of more than 50,000 gallons of wine to manufacturers, importing distributors and distributors and to no other licensees.

Class 6. A first-class wine-maker's license shall allow the manufacture of up to 50,000 gallons of wine per year, and the storage and sale of such wine to distributors in the State and to persons without the State, as may be permitted by law. A person who, prior to the effective date of this amendatory Act of the 95th General Assembly, is a holder of a first-class wine-maker's license and annually produces more than 25,000 gallons of its own wine and who distributes its wine to licensed retailers shall cease this practice on or before July 1, 2008 in compliance with this amendatory Act of the 95th General Assembly.

Class 7. A second-class wine-maker's license shall allow the manufacture of between 50,000 and 150,000 gallons of wine per year, and the storage and sale of such wine to distributors in this State and to persons without the State, as may be permitted by law. A person who, prior to the effective date of this amendatory Act of the 95th General Assembly, is a holder of a second-class wine-maker's license and annually produces more than 25,000 gallons of its own wine and who distributes its wine to licensed retailers shall cease this practice on or before July 1, 2008 in compliance with this amendatory Act of the 95th General Assembly.

Class 8. A limited wine-manufacturer may make sales and deliveries not to exceed 40,000 gallons of wine per year to distributors, and to non-licensees in accordance with the provisions of this Act.

(a-1) A manufacturer which is licensed in this State to make sales or deliveries of alcoholic liquor and which enlists agents, representatives, or individuals acting on its behalf who contact licensed retailers on a regular and continual basis in this State must register those agents, representatives, or persons acting on its behalf with the State Commission.

Registration of agents, representatives, or persons acting on behalf of a manufacturer is fulfilled by submitting a form to the Commission. The form shall be developed by the Commission and shall include the name and address of the applicant, the name and address of the manufacturer he or she represents, the territory or areas assigned to sell to or discuss pricing terms of alcoholic liquor, and any other questions deemed appropriate and necessary. All statements in the forms required to be made by law or by rule shall be deemed material, and any person who knowingly misstates any material fact under oath in an application is guilty of a Class B misdemeanor. Fraud, misrepresentation, false statements, misleading statements, evasions, or suppression of material facts in the securing of a registration are grounds for suspension or revocation of the registration.

(b) A distributor's license shall allow the wholesale purchase and storage of alcoholic liquors and sale of alcoholic liquors to licensees in this State and to persons without the State, as may be permitted by law.

(c) An importing distributor's license may be issued to and held by those only who are duly licensed distributors, upon the filing of an application by a duly licensed distributor, with the Commission and the Commission shall, without the payment of any fee, immediately issue such importing distributor's license to the applicant, which shall allow the importation of alcoholic liquor by the licensee into this State from any point in the United States outside this State, and the purchase of alcoholic liquor in barrels, casks or other bulk containers and the bottling of such alcoholic liquors before resale thereof, but all bottles or containers so filled shall be sealed, labeled, stamped and otherwise made to comply with all provisions, rules and regulations governing manufacturers in the preparation and bottling of alcoholic liquors. The importing distributor's license shall permit such licensee to purchase alcoholic liquor from Illinois licensed non-resident dealers and foreign importers only.

(d) A retailer's license shall allow the licensee to sell and offer for sale at retail, only in the premises specified in the license, alcoholic liquor for use or consumption, but not for resale in any form. Nothing in this amendatory Act of the 95th General Assembly shall deny, limit, remove, or restrict the ability of a holder of a retailer's license to transfer, deliver, or ship alcoholic liquor to the purchaser for use or

consumption subject to any applicable local law or ordinance. Any retail license issued to a manufacturer shall only permit the manufacturer to sell beer at retail on the premises actually occupied by the manufacturer. For the purpose of further describing the type of business conducted at a retail licensed premises, a retailer's licensee may be designated by the State Commission as (i) an on premise consumption retailer, (ii) an off premise sale retailer, or (iii) a combined on premise consumption and off premise sale retailer.

Notwithstanding any other provision of this subsection (d), a retail licensee may sell alcoholic liquors to a special event retailer licensee for resale to the extent permitted under subsection (e).

(e) A special event retailer's license (not-for-profit) shall permit the licensee to purchase alcoholic liquors from an Illinois licensed distributor (unless the licensee purchases less than \$500 of alcoholic liquors for the special event, in which case the licensee may purchase the alcoholic liquors from a licensed retailer) and shall allow the licensee to sell and offer for sale, at retail, alcoholic liquors for use or consumption, but not for resale in any form and only at the location and on the specific dates designated for the special event in the license. An applicant for a special event retailer license must (i) furnish with the application: (A) a resale number issued under Section 2c of the Retailers' Occupation Tax Act or evidence that the applicant is registered under Section 2a of the Retailers' Occupation Tax Act, (B) a current, valid exemption identification number issued under Section 1g of the Retailers' Occupation Tax Act, and a certification to the Commission that the purchase of alcoholic liquors will be a tax-exempt purchase, or (C) a statement that the applicant is not registered under Section 2a of the Retailers' Occupation Tax Act, does not hold a resale number under Section 2c of the Retailers' Occupation Tax Act, and does not hold an exemption number under Section 1g of the Retailers' Occupation Tax Act, in which event the Commission shall set forth on the special event retailer's license a statement to that effect; (ii) submit with the application proof satisfactory to the State Commission that the applicant will provide dram shop liability insurance in the maximum limits; and (iii) show proof satisfactory to the State Commission that the applicant has obtained local authority approval.

(f) A railroad license shall permit the licensee to import alcoholic liquors into this State from any point in the United States outside this State and to store such alcoholic liquors in this State; to make wholesale purchases of alcoholic liquors directly from manufacturers, foreign importers, distributors and importing distributors from within or outside this State; and to store such alcoholic liquors in this State; provided that the above powers may be exercised only in connection with the importation, purchase or storage of alcoholic liquors to be sold or dispensed on a club, buffet, lounge or dining car operated on an electric, gas or steam railway in this State; and provided further, that railroad licensees exercising the above powers shall be subject to all provisions of Article VIII of this Act as applied to importing distributors. A railroad license shall also permit the licensee to sell or dispense alcoholic liquors on any club, buffet, lounge or dining car operated on an electric, gas or steam railway regularly operated by a common carrier in this State, but shall not permit the sale for resale of any alcoholic liquors to any licensee within this State. A license shall be obtained for each car in which such sales are made.

(g) A boat license shall allow the sale of alcoholic liquor in individual drinks, on any passenger boat regularly operated as a common carrier on navigable waters in this State or on any riverboat operated under the Riverboat Gambling Act, which boat or riverboat maintains a public dining room or restaurant thereon.

(h) A non-beverage user's license shall allow the licensee to purchase alcoholic liquor from a licensed manufacturer or importing distributor, without the imposition of any tax upon the business of such licensed manufacturer or importing distributor as to such alcoholic liquor to be used by such licensee solely for the non-beverage purposes set forth in subsection (a) of Section 8-1 of this Act, and such licenses shall be divided and classified and shall permit the purchase, possession and use of limited and stated quantities of alcoholic liquor as follows:

Class 1, not to exceed	500 gallons
Class 2, not to exceed	1,000 gallons
Class 3, not to exceed	5,000 gallons
Class 4, not to exceed	10,000 gallons
Class 5, not to exceed	50,000 gallons

(i) A wine-maker's premises license shall allow a licensee that concurrently holds a first-class wine-maker's license to sell and offer for sale at retail in the premises specified in such license not more than 50,000 gallons of the first-class wine-maker's wine that is made at the first-class wine-maker's licensed premises per year for use or consumption, but not for resale in any form. A wine-maker's premises license shall allow a licensee who concurrently holds a second-class wine-maker's license to sell and offer for sale at retail in the premises specified in such license up to 100,000 gallons of the second-class wine-maker's

wine that is made at the second-class wine-maker's licensed premises per year for use or consumption but not for resale in any form. A wine-maker's premises license shall allow a licensee that concurrently holds a first-class wine-maker's license or a second-class wine-maker's license to sell and offer for sale at retail at the premises specified in the wine-maker's premises license, for use or consumption but not for resale in any form, any beer, wine, and spirits purchased from a licensed distributor. Upon approval from the State Commission, a wine-maker's premises license shall allow the licensee to sell and offer for sale at (i) the wine-maker's licensed premises and (ii) at up to 2 additional locations for use and consumption and not for resale. Each location shall require additional licensing per location as specified in Section 5-3 of this Act. A wine-maker's premises licensee shall secure liquor liability insurance coverage in an amount at least equal to the maximum liability amounts set forth in subsection (a) of Section 6-21 of this Act.

(j) An airplane license shall permit the licensee to import alcoholic liquors into this State from any point in the United States outside this State and to store such alcoholic liquors in this State; to make wholesale purchases of alcoholic liquors directly from manufacturers, foreign importers, distributors and importing distributors from within or outside this State; and to store such alcoholic liquors in this State; provided that the above powers may be exercised only in connection with the importation, purchase or storage of alcoholic liquors to be sold or dispensed on an airplane; and provided further, that airplane licensees exercising the above powers shall be subject to all provisions of Article VIII of this Act as applied to importing distributors. An airplane licensee shall also permit the sale or dispensing of alcoholic liquors on any passenger airplane regularly operated by a common carrier in this State, but shall not permit the sale for resale of any alcoholic liquors to any licensee within this State. A single airplane license shall be required of an airline company if liquor service is provided on board aircraft in this State. The annual fee for such license shall be as determined in Section 5-3.

(k) A foreign importer's license shall permit such licensee to purchase alcoholic liquor from Illinois licensed non-resident dealers only, and to import alcoholic liquor other than in bulk from any point outside the United States and to sell such alcoholic liquor to Illinois licensed importing distributors and to no one else in Illinois; provided that (i) the foreign importer registers with the State Commission every brand of alcoholic liquor that it proposes to sell to Illinois licensees during the license period, (ii) the foreign importer complies with all of the provisions of Section 6-9 of this Act with respect to registration of such Illinois licensees as may be granted the right to sell such brands at wholesale, and (iii) the foreign importer complies with the provisions of Sections 6-5 and 6-6 of this Act to the same extent that these provisions apply to manufacturers.

(l) (i) A broker's license shall be required of all persons who solicit orders for, offer to sell or offer to supply alcoholic liquor to retailers in the State of Illinois, or who offer to retailers to ship or cause to be shipped or to make contact with distillers, rectifiers, brewers or manufacturers or any other party within or without the State of Illinois in order that alcoholic liquors be shipped to a distributor, importing distributor or foreign importer, whether such solicitation or offer is consummated within or without the State of Illinois.

No holder of a retailer's license issued by the Illinois Liquor Control Commission shall purchase or receive any alcoholic liquor, the order for which was solicited or offered for sale to such retailer by a broker unless the broker is the holder of a valid broker's license.

The broker shall, upon the acceptance by a retailer of the broker's solicitation of an order or offer to sell or supply or deliver or have delivered alcoholic liquors, promptly forward to the Illinois Liquor Control Commission a notification of said transaction in such form as the Commission may by regulations prescribe.

(ii) A broker's license shall be required of a person within this State, other than a retail licensee, who, for a fee or commission, promotes, solicits, or accepts orders for alcoholic liquor, for use or consumption and not for resale, to be shipped from this State and delivered to residents outside of this State by an express company, common carrier, or contract carrier. This Section does not apply to any person who promotes, solicits, or accepts orders for wine as specifically authorized in Section 6-29 of this Act.

A broker's license under this subsection (l) shall not entitle the holder to buy or sell any alcoholic liquors for his own account or to take or deliver title to such alcoholic liquors.

This subsection (l) shall not apply to distributors, employees of distributors, or employees of a manufacturer who has registered the trademark, brand or name of the alcoholic liquor pursuant to Section 6-9 of this Act, and who regularly sells such alcoholic liquor in the State of Illinois only to its registrants thereunder.

Any agent, representative, or person subject to registration pursuant to subsection (a-1) of this Section shall not be eligible to receive a broker's license.

(m) A non-resident dealer's license shall permit such licensee to ship into and warehouse alcoholic liquor into this State from any point outside of this State, and to sell such alcoholic liquor to Illinois licensed foreign importers and importing distributors and to no one else in this State; provided that (i) said non-resident dealer shall register with the Illinois Liquor Control Commission each and every brand of alcoholic liquor which it proposes to sell to Illinois licensees during the license period, (ii) it shall comply with all of the provisions of Section 6-9 hereof with respect to registration of such Illinois licensees as may be granted the right to sell such brands at wholesale, and (iii) the non-resident dealer shall comply with the provisions of Sections 6-5 and 6-6 of this Act to the same extent that these provisions apply to manufacturers.

(n) A brew pub license shall allow the licensee to manufacture beer only on the premises specified in the license, to make sales of the beer manufactured on the premises to importing distributors, distributors, and to non-licensees for use and consumption, to store the beer upon the premises, and to sell and offer for sale at retail from the licensed premises, provided that a brew pub licensee shall not sell for off-premises consumption more than 50,000 gallons per year.

(o) A caterer retailer license shall allow the holder to serve alcoholic liquors as an incidental part of a food service that serves prepared meals which excludes the serving of snacks as the primary meal, either on or off-site whether licensed or unlicensed.

(p) An auction liquor license shall allow the licensee to sell and offer for sale at auction wine and spirits for use or consumption, or for resale by an Illinois liquor licensee in accordance with provisions of this Act. An auction liquor license will be issued to a person and it will permit the auction liquor licensee to hold the auction anywhere in the State. An auction liquor license must be obtained for each auction at least 14 days in advance of the auction date.

(q) A special use permit license shall allow an Illinois licensed retailer to transfer a portion of its alcoholic liquor inventory from its retail licensed premises to the premises specified in the license hereby created, and to sell or offer for sale at retail, only in the premises specified in the license hereby created, the transferred alcoholic liquor for use or consumption, but not for resale in any form. A special use permit license may be granted for the following time periods: one day or less; 2 or more days to a maximum of 15 days per location in any 12 month period. An applicant for the special use permit license must also submit with the application proof satisfactory to the State Commission that the applicant will provide dram shop liability insurance to the maximum limits and have local authority approval.

(r) A winery shipper's license shall allow a person with a first-class or second-class wine manufacturer's license, a first-class or second-class wine-maker's license, or a limited wine manufacturer's license or who is licensed to make wine under the laws of another state to ship wine made by that licensee directly to a resident of this State who is 21 years of age or older for that resident's personal use and not for resale. Prior to receiving a winery shipper's license, an applicant for the license must provide the Commission with a true copy of its current license in any state in which it is licensed as a manufacturer of wine. An applicant for a winery shipper's license must also complete an application form that provides any other information the Commission deems necessary. The application form shall include an acknowledgement consenting to the jurisdiction of the Commission, ~~the Illinois Department of Revenue~~, and the courts of this State concerning the enforcement of this Act and any related laws, rules, and regulations, including authorizing ~~the Department of Revenue and~~ the Commission to conduct audits for the purpose of ensuring compliance with this amendatory Act.

A winery shipper licensee must pay to the Department of Revenue the State liquor gallonage tax under Section 8-1 for all wine that is sold by the licensee and shipped to a person in this State. For the purposes of Section 8-1, a winery shipper licensee shall be taxed in the same manner as a manufacturer of wine. A licensee who is not otherwise required to register under the Retailers' Occupation Tax Act must register under the Use Tax Act to collect and remit use tax to the Department of Revenue for all gallons of wine that are sold by the licensee and shipped to persons in this State. If a licensee fails to remit the tax imposed under this Act in accordance with the provisions of Article VIII of this Act, the winery shipper's license shall be revoked in accordance with the provisions of Article VII of this Act. If a licensee fails to properly register and remit tax under the Use Tax Act or the Retailers' Occupation Tax Act for all wine that is sold by the winery shipper and shipped to persons in this State, the winery shipper's license shall be revoked in accordance with the provisions of Article VII of this Act.

A winery shipper licensee must collect, maintain, and submit to the Commission on a semi-annual basis the total number of cases per resident of wine shipped to residents of this State. A winery shipper licensed under this subsection (r) must comply with the requirements of Section 6-29 of this amendatory Act.

(Source: P.A. 95-331, eff. 8-21-07; 95-634, eff. 6-1-08; 95-769, eff. 7-29-08.)

(235 ILCS 5/6-29.1)

Sec. 6-29.1. Direct shipments of alcoholic liquor.

(a) The General Assembly makes the following findings:

(1) The General Assembly of Illinois, having reviewed this Act in light of the United States Supreme Court's 2005 decision in *Granholm v. Heald*, has determined to conform that law to the constitutional principles enunciated by the Court in a manner that best preserves the temperance, revenue, and orderly distribution values of this Act.

(2) Minimizing automobile accidents and fatalities, domestic violence, health problems, loss of productivity, unemployment, and other social problems associated with dependency and improvident use of alcoholic beverages remains the policy of Illinois.

(3) To the maximum extent constitutionally feasible, Illinois desires to collect sufficient revenue from excise and use taxes on alcoholic beverages for the purpose of responding to such social problems.

(4) Combined with family education and individual discipline, retail validation of age, and assessment of the capacity of the consumer remains the best pre-sale social protection against the problems associated with the abuse of alcoholic liquor.

(5) Therefore, the paramount purpose of this amendatory Act is to continue to carefully limit direct shipment sales of wine produced by makers of wine and to continue to prohibit such direct shipment sales for spirits and beer.

For these reasons, the Commission shall establish a system to notify the out-of-state trade of this prohibition and to detect violations. The Commission shall request the Attorney General to extradite any offender.

(b) Pursuant to the Twenty-First Amendment of the United States Constitution allowing states to regulate the distribution and sale of alcoholic liquor and pursuant to the federal Webb-Kenyon Act declaring that alcoholic liquor shipped in interstate commerce must comply with state laws, the General Assembly hereby finds and declares that selling alcoholic liquor from a point outside this State through various direct marketing means, such as catalogs, newspapers, mailers, and the Internet, directly to residents of this State poses a serious threat to the State's efforts to prevent youths from accessing alcoholic liquor; to State revenue collections; and to the economy of this State.

Any person manufacturing, distributing, or selling alcoholic liquor who knowingly ships or transports or causes the shipping or transportation of any alcoholic liquor from a point outside this State to a person in this State who does not hold a manufacturer's, distributor's, importing distributor's, or non-resident dealer's license issued by the Liquor Control Commission, other than a shipment of sacramental wine to a bona fide religious organization, a shipment authorized by Section 6-29, subparagraph (17) of Section 3-12, or any other shipment authorized by this Act, is in violation of this Act.

The Commission, upon determining, after investigation, that a person has violated this Section, shall give notice to the person by certified mail to cease and desist all shipments of alcoholic liquor into this State and to withdraw from this State within 5 working days after receipt of the notice all shipments of alcoholic liquor then in transit.

Whenever the Commission has reason to believe that a person has failed to comply with the Commission notice under this Section, it shall ~~notify the Department of Revenue and~~ file a complaint with the State's Attorney of the county where the alcoholic liquor was delivered or with appropriate law enforcement officials.

Failure to comply with the notice issued by the Commission under this Section constitutes a business offense for which the person shall be fined not more than \$1,000 for a first offense, not more than \$5,000 for a second offense, and not more than \$10,000 for a third or subsequent offense. Each shipment of alcoholic liquor delivered in violation of the cease and desist notice shall constitute a separate offense.

(Source: P.A. 95-634, eff. 6-1-08.)

(235 ILCS 5/7A-2) (from Ch. 43, par. 157b)

Sec. 7A-2. On and after August 1, 1937, it shall be unlawful for any warehouseman to receive, hold, store or deliver any alcoholic liquors without a certificate of registration from the Commission ~~Department~~. Application for a certificate of registration shall be made to the Commission ~~Department~~ and shall state: (1) The name of the applicant; (2) the address of his warehouse (if he operates more than one such warehouse, he shall state the address of each such warehouse). Upon the receipt of the application in proper form, the Commission ~~Department~~ shall issue to such applicant a certificate of registration bearing a distinctive number which he shall conspicuously display on the premises for which it is issued. The applications shall be made on forms prepared and furnished by the Commission ~~Department~~ and shall contain such other

information as the Commission Department may reasonably require to carry out the provisions of this Act.
(Source: P.A. 82-783.)

(235 ILCS 5/7A-3) (from Ch. 43, par. 157c)

Sec. 7A-3. It shall be unlawful for any person to store any alcoholic liquors with or deliver any alcoholic liquors to any warehouseman who has not received a certificate of registration from the Commission Department.

(Source: P.A. 82-783.)

(235 ILCS 5/7A-4) (from Ch. 43, par. 157d)

Sec. 7A-4. On or before the fifteenth day of each calendar month, every warehouseman holding a certificate of registration under this Article shall file a return with the Commission Department covering the preceding calendar month stating:

1. The name of the warehouseman and the number of his certificate of registration;
2. The address of the warehouse;

3. The name and address of each person from whom any alcoholic liquors were actually or constructively received by him as a warehouseman, the date on which same were so received, the number and size of the containers in which any alcoholic liquors were so received, and the number and size of the containers to the credit of each such person at the end of the preceding calendar month; and

4. The name and address of each person to whom any alcoholic liquors were actually or constructively delivered by him as a warehouseman, the date on which same were so delivered, the number and size of the containers in which any alcoholic liquors were so delivered and from whom any alcoholic liquors so delivered were actually or constructively received.

(Source: P.A. 82-783.)

(235 ILCS 5/7A-5) (from Ch. 43, par. 157e)

Sec. 7A-5. Each warehouseman included in this Article shall keep or cause to be kept, at his registered address, a record showing all alcoholic liquors actually or constructively received by him as a warehouseman, held, stored or actually or constructively delivered by him as a warehouseman, the name and address of the person depositing same, the name and address of the person to whom delivered and any other information necessary to the proper conduct of such warehouse. Such records shall, at all times during business hours of the day, be subject to inspection by the Commission Department or its duly authorized agents and employees. Such records shall be preserved for a period of two (2) years, unless the Commission Department, in writing, authorizes their destruction or disposal at an earlier date. Such records, reflecting business done at any time after July 1, 1945, shall be preserved for a period of three (3) years, unless the Commission Department, in writing, authorizes their destruction or disposal at an earlier date.

(Source: P.A. 82-783.)

(235 ILCS 5/7A-6) (from Ch. 43, par. 157f)

Sec. 7A-6. Any person who violates any of the provisions of this Article or any of the rules and regulations of the Commission Department for the administration and enforcement of the provisions of this Article is guilty of a Class B misdemeanor. In case of a continuing violation each day's continuance thereof shall be a separate and distinct offense.

(Source: P.A. 82-783.)

Section 1220. The Environmental Protection Act is amended by changing Section 5 as follows:

(415 ILCS 5/5) (from Ch. 111 1/2, par. 1005)

Sec. 5. Pollution Control Board.

(a) There is hereby created an independent board to be known as the Pollution Control Board.

Until July 1, 2003 or when all of the new members to be initially appointed under this amendatory Act of the 93rd General Assembly have been appointed by the Governor, whichever occurs later, the Board shall consist of 7 technically qualified members, no more than 4 of whom may be of the same political party, to be appointed by the Governor with the advice and consent of the Senate.

The term of each appointed member of the Board who is in office on June 30, 2003 shall terminate at the close of business on that date or when all of the new members to be initially appointed under this amendatory Act of the 93rd General Assembly have been appointed by the Governor, whichever occurs later.

Beginning on July 1, 2003 or when all of the new members to be initially appointed under this amendatory Act of the 93rd General Assembly have been appointed by the Governor, whichever occurs later, the Board shall consist of 5 technically qualified members, no more than 3 of whom may be of the same political party, to be appointed by the Governor with the advice and consent of the Senate. Members

shall have verifiable technical, academic, or actual experience in the field of pollution control or environmental law and regulation.

Of the members initially appointed pursuant to this amendatory Act of the 93rd General Assembly, one shall be appointed for a term ending July 1, 2004, 2 shall be appointed for terms ending July 1, 2005, and 2 shall be appointed for terms ending July 1, 2006. Thereafter, all members shall hold office for 3 years from the first day of July in the year in which they were appointed, except in case of an appointment to fill a vacancy. In case of a vacancy in the office when the Senate is not in session, the Governor may make a temporary appointment until the next meeting of the Senate, when he or she shall nominate some person to fill such office; and any person so nominated, who is confirmed by the Senate, shall hold the office during the remainder of the term.

Members of the Board shall hold office until their respective successors have been appointed and qualified. Any member may resign from office, such resignation to take effect when a successor has been appointed and has qualified.

Board members shall be paid \$37,000 per year or an amount set by the Compensation Review Board, whichever is greater, and the Chairman shall be paid \$43,000 per year or an amount set by the Compensation Review Board, whichever is greater. Each member shall devote his or her entire time to the duties of the office, and shall hold no other office or position of profit, nor engage in any other business, employment, or vocation. Each member shall be reimbursed for expenses necessarily incurred and shall make a financial disclosure upon appointment.

Each Board member may employ one secretary and one assistant, and the Chairman one secretary and 2 assistants. The Board also may employ and compensate hearing officers to preside at hearings under this Act, and such other personnel as may be necessary. Hearing officers shall be attorneys licensed to practice law in Illinois.

The Board may have an Executive Director; if so, the Executive Director shall be appointed by the Governor with the advice and consent of the Senate. The salary and duties of the Executive Director shall be fixed by the Board.

The Governor shall designate one Board member to be Chairman, who shall serve at the pleasure of the Governor.

The Board shall hold at least one meeting each month and such additional meetings as may be prescribed by Board rules. In addition, special meetings may be called by the Chairman or by any 2 Board members, upon delivery of 24 hours written notice to the office of each member. All Board meetings shall be open to the public, and public notice of all meetings shall be given at least 24 hours in advance of each meeting. In emergency situations in which a majority of the Board certifies that exigencies of time require the requirements of public notice and of 24 hour written notice to members may be dispensed with, and Board members shall receive such notice as is reasonable under the circumstances.

~~Four~~ ~~If there is no vacancy on the Board,~~ 4 members of the Board shall constitute a quorum to transact business. ~~The affirmative vote of at least 4 members is required for Board decisions. No ; otherwise, a majority of the Board shall constitute a quorum to transact business, and no vacancy shall impair the right of the remaining members to exercise all of the powers of the Board. Every action approved by a majority of the members of the Board shall be deemed to be the action of the Board. The Board shall keep a complete and accurate record of all its meetings.~~

(b) The Board shall determine, define and implement the environmental control standards applicable in the State of Illinois and may adopt rules and regulations in accordance with Title VII of this Act.

(c) The Board shall have authority to act for the State in regard to the adoption of standards for submission to the United States under any federal law respecting environmental protection. Such standards shall be adopted in accordance with Title VII of the Act and upon adoption shall be forwarded to the Environmental Protection Agency for submission to the United States pursuant to subsections (l) and (m) of Section 4 of this Act. Nothing in this paragraph shall limit the discretion of the Governor to delegate authority granted to the Governor under any federal law.

(d) The Board shall have authority to conduct proceedings upon complaints charging violations of this Act, any rule or regulation adopted under this Act, any permit or term or condition of a permit, or any Board order; upon administrative citations; upon petitions for variances or adjusted standards; upon petitions for review of the Agency's final determinations on permit applications in accordance with Title X of this Act; upon petitions to remove seals under Section 34 of this Act; and upon other petitions for review of final determinations which are made pursuant to this Act or Board rule and which involve a subject which the Board is authorized to regulate. The Board may also conduct other proceedings as may be provided by this Act or any other statute or rule.

(e) In connection with any proceeding pursuant to subsection (b) or (d) of this Section, the Board may subpoena and compel the attendance of witnesses and the production of evidence reasonably necessary to resolution of the matter under consideration. The Board shall issue such subpoenas upon the request of any party to a proceeding under subsection (d) of this Section or upon its own motion.

(f) The Board may prescribe reasonable fees for permits required pursuant to this Act. Such fees in the aggregate may not exceed the total cost to the Agency for its inspection and permit systems. The Board may not prescribe any permit fees which are different in amount from those established by this Act.

(Source: P.A. 95-331, eff. 8-21-07.)

Section 1230. The Hazardous Materials Emergency Act is amended by changing Section 4 as follows: (430 ILCS 50/4) (from Ch. 127, par. 1254)

Sec. 4. There is hereby created a Hazardous Materials Advisory Board, composed of 21 members as follows: the Director of the Illinois Emergency Management Agency, or his designee; the Director of Agriculture or his designee; the Chairman of the Illinois Commerce Commission or his designee; the Director of Public Health or his designee; the Director of the Environmental Protection Agency or his designee; the Secretary of Transportation or his designee; the State Fire Marshal or his designee; the Director of State Police or his designee; the Director of Natural Resources or his designee; the Illinois Attorney General or his designee; the Director of Nuclear Safety or his designee; the Executive Director of the Illinois Law Enforcement Training Standards Board or his designee; the Director of the Illinois Fire Service Institute, University of Illinois, or his designee; and a representative from the Illinois Association of Chiefs of Police; the Illinois Fire Chief's Association; the Illinois Sheriff's Association; the Illinois Emergency Services Management Association; and 4 members appointed by the Governor, one of whom shall represent volunteer firefighters, one of whom shall represent the local emergency response service and two shall represent the business community. The Chairman shall be selected by the membership from those members not representing a State agency.

The Board shall meet within 90 days of the effective date of this amendatory Act of 1984 to select a chairman, other officers and establish an organization structure as the members deem necessary and thereafter at the call of the chair or any 11 members. A person who has been designated by the Director of his department to represent the Director on the Board shall be entitled to vote on all questions before the Board. Eleven members of the Board constitute a quorum, ~~except that where members have not been appointed or designated to the Board, a quorum shall be constituted by a simple majority of the appointed or designated membership.~~ The affirmative vote of at least 11 members is required for Board decisions.

The Board shall advise and make recommendations to the Agency regarding the reporting of an accident involving hazardous materials and to the Department regarding the placarding of transportation of hazardous materials. The Board shall design a program and develop a Statewide plan providing for a coordinating system among State agencies and departments and units of local government, for response to accidents involving hazardous materials. Every attempt shall be made to avoid requiring any person to report an accident involving hazardous materials to more than one State agency. If at all possible, the primary agency receiving the reports shall be the Illinois Emergency Management Agency, and that agency shall relay reports to other State and local agencies.

The Board shall form from among its members, an Emergency Response Training and Standards Committee. The Secretary of Transportation or his designee, the State Fire Marshal or his designee, and the representatives from the Chiefs of Police, Fire Chiefs and Sheriff's Association shall also serve on the Committee. It shall be the duty of this Committee, with final approval of the Board, to recommend standardized training courses for firefighters, police officers, and other hazardous material emergency response personnel of the State and local governments; to recommend standards for hazardous material emergency response equipment; and recommend standards for achievement levels for the various hazardous material emergency response personnel. The standardized courses shall include training for firefighters, police officers, and other hazardous material emergency response personnel described in the federal regulations relating to the placarding system that has been promulgated under the Hazardous Materials Transportation Act (P.L. 93-633).

The Board shall review and recommend the material to be provided under Sections 5.04, 5.05, and 5.06 of this Act and assure the development of a plan for those activities in Section 5.07 of this Act.

The Board shall have the duty to study and recommend to the various State agencies, local governments and the General Assembly any aspect of placarding in transportation, hazard signage systems, the training of hazardous material emergency response personnel, the equipment used in hazardous material emergency response, the planning for hazardous material emergency response, and the dissemination of information concerning these areas.

The Department of Transportation and the Illinois Emergency Management Agency shall furnish meeting facilities, staff, and other administrative needs of the Board. The Agency or the Department shall inform the Board whenever the Agency or the Department is considering the adoption of any regulations under this Act. The Agency or the Department shall send a copy of all proposed regulations to each member of the Board; the Board shall be represented at all public hearings regarding proposals for and changes in Agency or the Department regulations. The Board may, at its discretion, present the Agency or the Department with its written evaluation of the proposed regulations or changes.

Before the Department exempts any hazardous material from the placarding regulations, under Section 3 of this Act, the Board must approve the regulations providing for the exemption.

(Source: P.A. 89-445, eff. 2-7-96; 90-449, eff. 8-16-97.)

Section 1240. The Unified Code of Corrections is amended by changing Section 3-3-2 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;

(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, 8 a majority of the members of the Board shall constitute a quorum for the transaction of all business of the Board and the affirmative vote of at least 8 members is required for Board decisions.

(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.)

Section 1250. The Illinois Human Rights Act is amended by changing Section 8-101 as follows:

(775 ILCS 5/8-101) (from Ch. 68, par. 8-101)

Sec. 8-101. Illinois Human Rights Commission) (A) Creation; Appointments. The Human Rights Commission is created to consist of 13 members appointed by the Governor with the advice and consent of the Senate. No more than 7 members shall be of the same political party. The Governor shall designate one member as chairperson. All appointments shall be in writing and filed with the Secretary of State as a public record.

(B) Terms. Of the members first appointed, 4 shall be appointed for a term to expire on the third Monday of January, 1981, and 5 (including the Chairperson) shall be appointed for a term to expire on the third Monday of January, 1983.

Notwithstanding any provision of this Section to the contrary, the term of office of each member of the Illinois Human Rights Commission is abolished on July 29, 1985, but the incumbent members shall continue to exercise all of the powers and be subject to all of the duties of members of the Commission until their respective successors are appointed and qualified. Subject to the provisions of subsection (A), of the 9 members appointed under Public Act 84-115, effective July 29, 1985, 5 members shall be appointed for terms to expire on the third Monday of January, 1987, and 4 members shall be appointed for terms to expire on the third Monday of January, 1989; and of the 4 additional members appointed under Public Act 84-1084, effective December 2, 1985, two shall be appointed for a term to expire on the third Monday of January, 1987, and two members shall be appointed for a term to expire on the third Monday of January, 1989.

Thereafter, each member shall serve for a term of 4 years and until his or her successor is appointed and qualified; except that any member chosen to fill a vacancy occurring otherwise than by expiration of a term shall be appointed only for the unexpired term of the member whom he or she shall succeed and until his or her successor is appointed and qualified.

(C) Vacancies. (1) In the case of vacancies on the Commission during a recess of the Senate, the Governor shall make a temporary appointment until the next meeting of the Senate when he or she shall appoint a person to fill the vacancy. Any person so nominated and confirmed by the Senate shall hold office for the remainder of the term and until his or her successor is appointed and qualified.

(2) If the Senate is not in session at the time this Act takes effect, the Governor shall make temporary appointments to the Commission as in the case of vacancies.

(3) Vacancies in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission. Except when authorized by this Act to proceed through a 3 member panel, 7 a majority of the members of the Commission then in office shall constitute a quorum. The affirmative vote of at least 7 members is required for Board decisions.

(D) Compensation. The Chairperson of the Commission shall be compensated at the rate of \$22,500 per year, or as set by the Compensation Review Board, whichever is greater, during his or her service as Chairperson, and each other member shall be compensated at the rate of \$20,000 per year, or as set by the Compensation Review Board, whichever is greater. In addition, all members of the Commission shall be reimbursed for expenses actually and necessarily incurred by them in the performance of their duties.

(Source: P.A. 84-1308.)

Section 9990. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 9999. Effective date. This Act takes effect upon becoming law."

AMENDMENT NO. 2. Amend Senate Bill 1333, AS AMENDED, with reference to page and line numbers of House Amendment No. 1, on page 4, by deleting lines 12 through 17; and on page 4, line 18, by replacing "(e)" with "(d)".

The foregoing motion prevailed and the amendments were adopted.

There being no further amendment(s), the bill, as amended, was again advanced to the order of Third Reading.

SENATE BILL ON THIRD READING

The following bill and any amendments adopted thereto were reproduced. Any amendments still pending upon the passage or defeat of a bill on Third Reading are automatically tabled pursuant to Rule 40(a).

On motion of Representative Madigan, SENATE BILL 1333 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: 116, Yeas; 0, Nays; 2, Answering Present.

(ROLL CALL 4)

This bill, as amended, having received the votes of a constitutional majority of the Members elected, was declared passed.

Ordered that the Clerk inform the Senate and ask their concurrence in the House amendment/s adopted.

On motion of Representative Mautino, SENATE BILL 1335 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: 118, Yeas; 0, Nays; 0, Answering Present.

(ROLL CALL 5)

This bill, as amended, having received the votes of a constitutional majority of the Members elected, was declared passed.

Ordered that the Clerk inform the Senate and ask their concurrence in the House amendment/s adopted.

On motion of Representative Bradley, SENATE BILL 1975 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: 117, Yeas; 0, Nays; 1, Answering Present.

(ROLL CALL 6)

This bill, as amended, having received the votes of a constitutional majority of the Members elected, was declared passed.

Ordered that the Clerk inform the Senate and ask their concurrence in the House amendment/s adopted.

On motion of Representative Mendoza, SENATE BILL 2026 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: 118, Yeas; 0, Nays; 0, Answering Present.

(ROLL CALL 7)

This bill, as amended, having received the votes of a constitutional majority of the Members elected, was declared passed.

Ordered that the Clerk inform the Senate and ask their concurrence in the House amendment/s adopted.

On motion of Representative Jakobsson, SENATE BILL 2180 was taken up and read by title a third time.

Pending discussion, Representative McCarthy moved the previous question.

And the question being, "Shall the main question be now put?" it was decided in the affirmative.

The question then being, "Shall this bill pass?" it was decided in the negative by the following vote: 51, Yeas; 65, Nays; 2, Answering Present.

(ROLL CALL 8)

This bill, having failed to receive the votes of a constitutional majority of the Members elected, was declared lost.

SUSPEND POSTING REQUIREMENTS

Pursuant to Rule 25, Representative Chapa LaVia moved to suspend the posting requirements of Rule 21 in relation to Subject Matter to be heard in Appropriations – Elementary & Secondary Education and Elementary & Secondary Education.

The motion prevailed.

SENATE BILLS ON THIRD READING

The following bills and any amendments adopted thereto were reproduced. Any amendments still pending upon the passage or defeat of a bill on Third Reading are automatically tabled pursuant to Rule 40(a).

On motion of Representative William Davis, SENATE BILL 47 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: 118, Yeas; 0, Nays; 0, Answering Present.

(ROLL CALL 9)

This bill, as amended, having received the votes of a constitutional majority of the Members elected, was declared passed.

Ordered that the Clerk inform the Senate and ask their concurrence in the House amendment/s adopted.

On motion of Representative Bradley, SENATE BILL 65 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: 117, Yeas; 0, Nays; 0, Answering Present.

(ROLL CALL 10)

This bill, having received the votes of a constitutional majority of the Members elected, was declared passed.

Ordered that the Clerk inform the Senate.

On motion of Representative Careen Gordon, SENATE BILL 89 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: 115, Yeas; 0, Nays; 2, Answering Present.

(ROLL CALL 11)

This bill, as amended, having received the votes of a constitutional majority of the Members elected, was declared passed.

Ordered that the Clerk inform the Senate and ask their concurrence in the House amendment/s adopted.

RECESS

At the hour of 3:01 o'clock p.m., Representative Turner moved that the House do now take a recess until the call of the Chair.

The motion prevailed.

At the hour of 4:47 o'clock p.m., the House resumed its session.

Representative Turner in the Chair.

SENATE BILL ON THIRD READING

The following bill and any amendments adopted thereto were reproduced. Any amendments still pending upon the passage or defeat of a bill on Third Reading are automatically tabled pursuant to Rule 40(a).

On motion of Representative Verschoore, SENATE BILL 138 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:
90, Yeas; 27, Nays; 0, Answering Present.

(ROLL CALL 12)

This bill, as amended, having received the votes of a constitutional majority of the Members elected, was declared passed.

Ordered that the Clerk inform the Senate and ask their concurrence in the House amendment/s adopted.

CONCURRENCES AND NON-CONCURRENCES IN SENATE AMENDMENTS TO HOUSE BILLS

Senate Amendments numbered 1 and 3 to HOUSE BILL 255, having been reproduced, were taken up for consideration.

Representative Lang moved that the House concur with the Senate in the adoption of Senate Amendments numbered 1 and 3.

And on that motion, a vote was taken resulting as follows:

86, Yeas; 30, Nays; 1, Answering Present.

(ROLL CALL 13)

The motion prevailed and the House concurred with the Senate in the adoption of Senate Amendments numbered 1 and 3 to HOUSE BILL 255.

Ordered that the Clerk inform the Senate.

Senate Amendments numbered 1 and 2 to HOUSE BILL 312, having been reproduced, were taken up for consideration.

Representative Lang moved that the House concur with the Senate in the adoption of Senate Amendments numbered 1 and 2.

And on that motion, a vote was taken resulting as follows:

117, Yeas; 0, Nays; 0, Answering Present.

(ROLL CALL 14)

The motion prevailed and the House concurred with the Senate in the adoption of Senate Amendments numbered 1 and 2 to HOUSE BILL 312.

Ordered that the Clerk inform the Senate.

Senate Amendments numbered 1 and 2 to HOUSE BILL 2400, having been reproduced, were taken up for consideration.

Representative Lang moved that the House concur with the Senate in the adoption of Senate Amendments numbered 1 and 2.

And on that motion, a vote was taken resulting as follows:

117, Yeas; 0, Nays; 0, Answering Present.

(ROLL CALL 15)

The motion prevailed and the House concurred with the Senate in the adoption of Senate Amendments numbered 1 and 2 to HOUSE BILL 2400.

Ordered that the Clerk inform the Senate.

SUSPEND POSTING REQUIREMENTS

Pursuant to Rule 25, Representative Ryg moved to suspend the posting requirements of Rule 21 in relation to HOUSE JOINT RESOLUTION 28.

The motion prevailed.

Pursuant to Rule 25, Representative Zalewski moved to suspend the posting requirements of Rule 21 in relation to SENATE BILL 337.

The motion prevailed.

AGREED RESOLUTIONS

HOUSE RESOLUTIONS 432, 433, 434, 435, 436, 438, 439, 440 and 441 were taken up for consideration.

Representative Currie moved the adoption of the agreed resolutions.

The motion prevailed and the agreed resolutions were adopted.

At the hour of 7:10 o'clock p.m., Representative Currie moved that the House do now adjourn until Friday, May 22, 2009, at 10:00 o'clock a.m., allowing perfunctory time for the Clerk.

The motion prevailed.

And the House stood adjourned.

STATE OF ILLINOIS
NINETY-SIXTH
GENERAL ASSEMBLY
HOUSE ROLL CALL
QUORUM ROLL CALL FOR ATTENDANCE

May 21, 2009

0 YEAS

0 NAYS

118 PRESENT

P Acevedo	P Davis, Monique	P Jefferson	P Reis
P Arroyo	P Davis, William	P Joyce	P Reitz
P Bassi	P DeLuca	P Kosel	P Riley
P Beaubien	P Dugan	P Lang	P Rita
P Beiser	P Dunkin	P Leitch	P Rose
P Bellock	P Durkin	P Lyons	P Ryg
P Berrios	P Eddy	P Mathias	P Sacia
P Biggins	P Farnham	P Mautino	P Saviano
P Black	P Feigenholtz	P May	P Schmitz
P Boland	P Flider	P McAsey	P Senger
P Bost	P Flowers	P McAuliffe	P Smith
P Bradley	P Ford	P McCarthy	P Sommer
P Brady	P Fortner	P McGuire	P Soto
P Brauer	P Franks	P Mell	P Stephens
P Brosnahan	P Fritchey	P Mendoza	P Sullivan
P Burke	P Froehlich	P Miller	P Thapedi
P Burns	P Golar	P Mitchell, Bill	P Tracy
P Cavaletto	P Gordon, Careen	P Mitchell, Jerry	P Tryon
P Chapa LaVia	P Gordon, Jehan	P Moffitt	P Turner
P Coladipietro	P Graham	P Mulligan	P Verschoore
P Cole	P Hamos	P Myers	P Wait
P Collins	P Hannig	P Nekritz	P Walker
P Colvin	P Harris	P Osmond	P Washington
P Connelly	P Hatcher	P Osterman	P Watson
P Coulson	P Hernandez	P Phelps	P Winters
P Crespo	P Hoffman	P Pihos	P Yarbrough
P Cross	P Holbrook	P Poe	P Zalewski
P Cultra	P Howard	P Pritchard	P Mr. Speaker
P Currie	P Jackson	P Ramey	
P D'Amico	P Jakobsson	P Reboletti	

E - Denotes Excused Absence

STATE OF ILLINOIS
NINETY-SIXTH
GENERAL ASSEMBLY
HOUSE ROLL CALL
SENATE BILL 51
STATE MONEYS-GOVMT SECURITIES
THIRD READING
PASSED

May 21, 2009

118 YEAS

0 NAYS

0 PRESENT

Y Acevedo	Y Davis, Monique	Y Jefferson	Y Reis
Y Arroyo	Y Davis, William	Y Joyce	Y Reitz
Y Bassi	Y DeLuca	Y Kosel	Y Riley
Y Beaubien	Y Dugan	Y Lang	Y Rita
Y Beiser	Y Dunkin	Y Leitch	Y Rose
Y Bellock	Y Durkin	Y Lyons	Y Ryg
Y Berrios	Y Eddy	Y Mathias	Y Sacia
Y Biggins	Y Farnham	Y Mautino	Y Saviano
Y Black	Y Feigenholtz	Y May	Y Schmitz
Y Boland	Y Flider	Y McAsey	Y Senger
Y Bost	Y Flowers	Y McAuliffe	Y Smith
Y Bradley	Y Ford	Y McCarthy	Y Sommer
Y Brady	Y Fortner	Y McGuire	Y Soto
Y Brauer	Y Franks	Y Mell	Y Stephens
Y Brosnahan	Y Fritchey	Y Mendoza	Y Sullivan
Y Burke	Y Froehlich	Y Miller	Y Thapedi
Y Burns	Y Golar	Y Mitchell, Bill	Y Tracy
Y Cavaletto	Y Gordon, Careen	Y Mitchell, Jerry	Y Tryon
Y Chapa LaVia	Y Gordon, Jehan	Y Moffitt	Y Turner
Y Coladipietro	Y Graham	Y Mulligan	Y Verschoore
Y Cole	Y Hamos	Y Myers	Y Wait
Y Collins	Y Hannig	Y Nekritz	Y Walker
Y Colvin	Y Harris	Y Osmond	Y Washington
Y Connelly	Y Hatcher	Y Osterman	Y Watson
Y Coulson	Y Hernandez	Y Phelps	Y Winters
Y Crespo	Y Hoffman	Y Pihos	Y Yarbrough
Y Cross	Y Holbrook	Y Poe	Y Zalewski
Y Cultra	Y Howard	Y Pritchard	Y Mr. Speaker
Y Currie	Y Jackson	Y Ramey	
Y D'Amico	Y Jakobsson	Y Reboletti	

E - Denotes Excused Absence

STATE OF ILLINOIS
 NINETY-SIXTH
 GENERAL ASSEMBLY
 HOUSE ROLL CALL
 SENATE BILL 54
 ST ETHICS-INSPECTOR REPORTS
 THIRD READING
 PASSED

May 21, 2009

118 YEAS

0 NAYS

0 PRESENT

Y Acevedo	Y Davis, Monique	Y Jefferson	Y Reis
Y Arroyo	Y Davis, William	Y Joyce	Y Reitz
Y Bassi	Y DeLuca	Y Kosel	Y Riley
Y Beaubien	Y Dugan	Y Lang	Y Rita
Y Beiser	Y Dunkin	Y Leitch	Y Rose
Y Bellock	Y Durkin	Y Lyons	Y Ryg
Y Berrios	Y Eddy	Y Mathias	Y Sacia
Y Biggins	Y Farnham	Y Mautino	Y Saviano
Y Black	Y Feigenholtz	Y May	Y Schmitz
Y Boland	Y Flider	Y McAsey	Y Senger
Y Bost	Y Flowers	Y McAuliffe	Y Smith
Y Bradley	Y Ford	Y McCarthy	Y Sommer
Y Brady	Y Fortner	Y McGuire	Y Soto
Y Brauer	Y Franks	Y Mell	Y Stephens
Y Brosnahan	Y Fritchey	Y Mendoza	Y Sullivan
Y Burke	Y Froehlich	Y Miller	Y Thapedi
Y Burns	Y Golar	Y Mitchell, Bill	Y Tracy
Y Cavaletto	Y Gordon, Careen	Y Mitchell, Jerry	Y Tryon
Y Chapa LaVia	Y Gordon, Jehan	Y Moffitt	Y Turner
Y Coladipietro	Y Graham	Y Mulligan	Y Verschoore
Y Cole	Y Hamos	Y Myers	Y Wait
Y Collins	Y Hannig	Y Nekritz	Y Walker
Y Colvin	Y Harris	Y Osmond	Y Washington
Y Connelly	Y Hatcher	Y Osterman	Y Watson
Y Coulson	Y Hernandez	Y Phelps	Y Winters
Y Crespo	Y Hoffman	Y Pihos	Y Yarbrough
Y Cross	Y Holbrook	Y Poe	Y Zalewski
Y Cultra	Y Howard	Y Pritchard	Y Mr. Speaker
Y Currie	Y Jackson	Y Ramey	
Y D'Amico	Y Jakobsson	Y Reboletti	

E - Denotes Excused Absence

STATE OF ILLINOIS
NINETY-SIXTH
GENERAL ASSEMBLY
HOUSE ROLL CALL
SENATE BILL 1333
MILITARY LEAVE OF ABSENCE
THIRD READING
PASSED

May 21, 2009

116 YEAS

0 NAYS

2 PRESENT

Y Acevedo	Y Davis, Monique	Y Jefferson	Y Reis
Y Arroyo	P Davis, William	Y Joyce	Y Reitz
Y Bassi	Y DeLuca	Y Kosel	Y Riley
Y Beaubien	Y Dugan	Y Lang	Y Rita
Y Beiser	Y Dunkin	Y Leitch	Y Rose
Y Bellock	Y Durkin	Y Lyons	Y Ryg
Y Berrios	Y Eddy	Y Mathias	Y Sacia
Y Biggins	Y Farnham	Y Mautino	Y Saviano
Y Black	Y Feigenholtz	Y May	Y Schmitz
Y Boland	Y Flider	Y McAsey	Y Senger
Y Bost	Y Flowers	Y McAuliffe	Y Smith
Y Bradley	Y Ford	Y McCarthy	Y Sommer
Y Brady	Y Fortner	Y McGuire	Y Soto
Y Brauer	Y Franks	Y Mell	Y Stephens
Y Brosnahan	Y Fritchey	Y Mendoza	Y Sullivan
Y Burke	Y Froehlich	Y Miller	Y Thapedi
Y Burns	Y Golar	Y Mitchell, Bill	Y Tracy
Y Cavaletto	Y Gordon, Careen	Y Mitchell, Jerry	Y Tryon
Y Chapa LaVia	Y Gordon, Jehan	Y Moffitt	Y Turner
Y Coladipietro	Y Graham	Y Mulligan	Y Verschoore
Y Cole	Y Hamos	Y Myers	Y Wait
Y Collins	Y Hannig	Y Nekritz	Y Walker
Y Colvin	Y Harris	Y Osmond	Y Washington
Y Connelly	Y Hatcher	Y Osterman	Y Watson
Y Coulson	Y Hernandez	Y Phelps	Y Winters
Y Crespo	Y Hoffman	Y Pihos	Y Yarbrough
Y Cross	Y Holbrook	Y Poe	Y Zalewski
P Cultra	Y Howard	Y Pritchard	Y Mr. Speaker
Y Currie	Y Jackson	Y Ramey	
Y D'Amico	Y Jakobsson	Y Reboletti	

E - Denotes Excused Absence

STATE OF ILLINOIS
NINETY-SIXTH
GENERAL ASSEMBLY
HOUSE ROLL CALL
SENATE BILL 1335
REG TITLES TORRENS-LEAD PAINT
THIRD PASSED
PASSED

May 21, 2009

118 YEAS

0 NAYS

0 PRESENT

Y Acevedo	Y Davis, Monique	Y Jefferson	Y Reis
Y Arroyo	Y Davis, William	Y Joyce	Y Reitz
Y Bassi	Y DeLuca	Y Kosel	Y Riley
Y Beaubien	Y Dugan	Y Lang	Y Rita
Y Beiser	Y Dunkin	Y Leitch	Y Rose
Y Bellock	Y Durkin	Y Lyons	Y Ryg
Y Berrios	Y Eddy	Y Mathias	Y Sacia
Y Biggins	Y Farnham	Y Mautino	Y Saviano
Y Black	Y Feigenholtz	Y May	Y Schmitz
Y Boland	Y Flider	Y McAsey	Y Senger
Y Bost	Y Flowers	Y McAuliffe	Y Smith
Y Bradley	Y Ford	Y McCarthy	Y Sommer
Y Brady	Y Fortner	Y McGuire	Y Soto
Y Brauer	Y Franks	Y Mell	Y Stephens
Y Brosnahan	Y Fritchey	Y Mendoza	Y Sullivan
Y Burke	Y Froehlich	Y Miller	Y Thapedi
Y Burns	Y Golar	Y Mitchell, Bill	Y Tracy
Y Cavaletto	Y Gordon, Careen	Y Mitchell, Jerry	Y Tryon
Y Chapa LaVia	Y Gordon, Jehan	Y Moffitt	Y Turner
Y Coladipietro	Y Graham	Y Mulligan	Y Verschoore
Y Cole	Y Hamos	Y Myers	Y Wait
Y Collins	Y Hannig	Y Nekritz	Y Walker
Y Colvin	Y Harris	Y Osmond	Y Washington
Y Connelly	Y Hatcher	Y Osterman	Y Watson
Y Coulson	Y Hernandez	Y Phelps	Y Winters
Y Crespo	Y Hoffman	Y Pihos	Y Yarbrough
Y Cross	Y Holbrook	Y Poe	Y Zalewski
Y Cultra	Y Howard	Y Pritchard	Y Mr. Speaker
Y Currie	Y Jackson	Y Ramey	
Y D'Amico	Y Jakobsson	Y Reboletti	

E - Denotes Excused Absence

STATE OF ILLINOIS
NINETY-SIXTH
GENERAL ASSEMBLY
HOUSE ROLL CALL
SENATE BILL 1975
INC TX-DEFINITIONS
THIRD READING
PASSED

May 21, 2009

117 YEAS

0 NAYS

1 PRESENT

Y Acevedo	Y Davis, Monique	Y Jefferson	Y Reis
Y Arroyo	Y Davis, William	Y Joyce	Y Reitz
Y Bassi	Y DeLuca	Y Kosel	Y Riley
Y Beaubien	Y Dugan	Y Lang	Y Rita
Y Beiser	Y Dunkin	Y Leitch	Y Rose
Y Bellock	Y Durkin	Y Lyons	Y Ryg
Y Berrios	Y Eddy	Y Mathias	Y Sacia
Y Biggins	Y Farnham	Y Mautino	Y Saviano
Y Black	Y Feigenholtz	Y May	Y Schmitz
Y Boland	Y Flider	Y McAsey	Y Senger
Y Bost	Y Flowers	Y McAuliffe	Y Smith
Y Bradley	Y Ford	Y McCarthy	Y Sommer
Y Brady	Y Fortner	Y McGuire	Y Soto
Y Brauer	Y Franks	Y Mell	Y Stephens
Y Brosnahan	Y Fritchey	Y Mendoza	Y Sullivan
Y Burke	Y Froehlich	Y Miller	Y Thapedi
Y Burns	Y Golar	Y Mitchell, Bill	Y Tracy
Y Cavaletto	Y Gordon, Careen	Y Mitchell, Jerry	Y Tryon
Y Chapa LaVia	Y Gordon, Jehan	Y Moffitt	Y Turner
Y Coladipietro	Y Graham	Y Mulligan	Y Verschoore
Y Cole	Y Hamos	Y Myers	Y Wait
Y Collins	Y Hannig	Y Nekritz	Y Walker
Y Colvin	Y Harris	Y Osmond	Y Washington
Y Connelly	Y Hatcher	Y Osterman	Y Watson
Y Coulson	Y Hernandez	Y Phelps	Y Winters
Y Crespo	Y Hoffman	Y Pihos	Y Yarbrough
Y Cross	Y Holbrook	Y Poe	Y Zalewski
Y Cultra	Y Howard	Y Pritchard	P Mr. Speaker
Y Currie	Y Jackson	Y Ramey	
Y D'Amico	Y Jakobsson	Y Reboletti	

E - Denotes Excused Absence

STATE OF ILLINOIS
 NINETY-SIXTH
 GENERAL ASSEMBLY
 HOUSE ROLL CALL
 SENATE BILL 2026
 CRIM CD-EAVESDROPPING EXEMPT
 THIRD READING
 PASSED

May 21, 2009

118 YEAS

0 NAYS

0 PRESENT

Y Acevedo	Y Davis, Monique	Y Jefferson	Y Reis
Y Arroyo	Y Davis, William	Y Joyce	Y Reitz
Y Bassi	Y DeLuca	Y Kosel	Y Riley
Y Beaubien	Y Dugan	Y Lang	Y Rita
Y Beiser	Y Dunkin	Y Leitch	Y Rose
Y Bellock	Y Durkin	Y Lyons	Y Ryg
Y Berrios	Y Eddy	Y Mathias	Y Sacia
Y Biggins	Y Farnham	Y Mautino	Y Saviano
Y Black	Y Feigenholtz	Y May	Y Schmitz
Y Boland	Y Flider	Y McAsey	Y Senger
Y Bost	Y Flowers	Y McAuliffe	Y Smith
Y Bradley	Y Ford	Y McCarthy	Y Sommer
Y Brady	Y Fortner	Y McGuire	Y Soto
Y Brauer	Y Franks	Y Mell	Y Stephens
Y Brosnahan	Y Fritchey	Y Mendoza	Y Sullivan
Y Burke	Y Froehlich	Y Miller	Y Thapedi
Y Burns	Y Golar	Y Mitchell, Bill	Y Tracy
Y Cavaletto	Y Gordon, Careen	Y Mitchell, Jerry	Y Tryon
Y Chapa LaVia	Y Gordon, Jehan	Y Moffitt	Y Turner
Y Coladipietro	Y Graham	Y Mulligan	Y Verschoore
Y Cole	Y Hamos	Y Myers	Y Wait
Y Collins	Y Hannig	Y Nekritz	Y Walker
Y Colvin	Y Harris	Y Osmond	Y Washington
Y Connelly	Y Hatcher	Y Osterman	Y Watson
Y Coulson	Y Hernandez	Y Phelps	Y Winters
Y Crespo	Y Hoffman	Y Pihos	Y Yarbrough
Y Cross	Y Holbrook	Y Poe	Y Zalewski
Y Cultra	Y Howard	Y Pritchard	Y Mr. Speaker
Y Currie	Y Jackson	Y Ramey	
Y D'Amico	Y Jakobsson	Y Reboletti	

E - Denotes Excused Absence

STATE OF ILLINOIS
NINETY-SIXTH
GENERAL ASSEMBLY
HOUSE ROLL CALL
SENATE BILL 2180
NOVELTY LIGHTERS-PROHIBIT
THIRD READING
LOST

May 21, 2009

51 YEAS

65 NAYS

2 PRESENT

N Acevedo	Y Davis, Monique	Y Jefferson	N Reis
N Arroyo	N Davis, William	Y Joyce	N Reitz
N Bassi	N DeLuca	N Kosel	Y Riley
N Beaubien	Y Dugan	Y Lang	N Rita
Y Beiser	Y Dunkin	N Leitch	N Rose
N Bellock	N Durkin	N Lyons	Y Ryg
N Berrios	N Eddy	N Mathias	Y Sacia
N Biggins	Y Farnham	N Mautino	N Saviano
N Black	Y Feigenholtz	Y May	Y Schmitz
Y Boland	N Flider	Y McAsey	N Senger
N Bost	Y Flowers	N McAuliffe	Y Smith
Y Bradley	Y Ford	Y McCarthy	N Sommer
N Brady	N Fortner	Y McGuire	N Soto
N Brauer	Y Franks	N Mell	N Stephens
Y Brosnahan	N Fritchey	N Mendoza	Y Sullivan
N Burke	Y Froehlich	Y Miller	Y Thapedi
Y Burns	P Golar	N Mitchell, Bill	N Tracy
N Cavaletto	Y Gordon, Careen	N Mitchell, Jerry	N Tryon
N Chapa LaVia	Y Gordon, Jehan	Y Moffitt	Y Turner
N Coladipietro	Y Graham	N Mulligan	N Verschoore
N Cole	N Hamos	N Myers	N Wait
Y Collins	Y Hannig	Y Nekritz	N Walker
Y Colvin	Y Harris	N Osmond	Y Washington
N Connelly	N Hatcher	Y Osterman	N Watson
N Coulson	Y Hernandez	N Phelps	N Winters
N Crespo	Y Hoffman	N Pihos	Y Yarbrough
N Cross	Y Holbrook	N Poe	Y Zalewski
N Cultra	P Howard	Y Pritchard	Y Mr. Speaker
Y Currie	Y Jackson	N Ramey	
N D'Amico	Y Jakobsson	N Reboletti	

E - Denotes Excused Absence

STATE OF ILLINOIS
 NINETY-SIXTH
 GENERAL ASSEMBLY
 HOUSE ROLL CALL
 SENATE BILL 47
 PROC CD-COMPTROLLER WEBSITE
 THIRD READING
 PASSED

May 21, 2009

118 YEAS

0 NAYS

0 PRESENT

Y Acevedo	Y Davis, Monique	Y Jefferson	Y Reis
Y Arroyo	Y Davis, William	Y Joyce	Y Reitz
Y Bassi	Y DeLuca	Y Kosel	Y Riley
Y Beaubien	Y Dugan	Y Lang	Y Rita
Y Beiser	Y Dunkin	Y Leitch	Y Rose
Y Bellock	Y Durkin	Y Lyons	Y Ryg
Y Berrios	Y Eddy	Y Mathias	Y Sacia
Y Biggins	Y Farnham	Y Mautino	Y Saviano
Y Black	Y Feigenholtz	Y May	Y Schmitz
Y Boland	Y Flider	Y McAsey	Y Senger
Y Bost	Y Flowers	Y McAuliffe	Y Smith
Y Bradley	Y Ford	Y McCarthy	Y Sommer
Y Brady	Y Fortner	Y McGuire	Y Soto
Y Brauer	Y Franks	Y Mell	Y Stephens
Y Brosnahan	Y Fritchey	Y Mendoza	Y Sullivan
Y Burke	Y Froehlich	Y Miller	Y Thapedi
Y Burns	Y Golar	Y Mitchell, Bill	Y Tracy
Y Cavaletto	Y Gordon, Careen	Y Mitchell, Jerry	Y Tryon
Y Chapa LaVia	Y Gordon, Jehan	Y Moffitt	Y Turner
Y Coladipietro	Y Graham	Y Mulligan	Y Verschoore
Y Cole	Y Hamos	Y Myers	Y Wait
Y Collins	Y Hannig	Y Nekritz	Y Walker
Y Colvin	Y Harris	Y Osmond	Y Washington
Y Connelly	Y Hatcher	Y Osterman	Y Watson
Y Coulson	Y Hernandez	Y Phelps	Y Winters
Y Crespo	Y Hoffman	Y Pihos	Y Yarbrough
Y Cross	Y Holbrook	Y Poe	Y Zalewski
Y Cultra	Y Howard	Y Pritchard	Y Mr. Speaker
Y Currie	Y Jackson	Y Ramey	
Y D'Amico	Y Jakobsson	Y Reboletti	

E - Denotes Excused Absence

STATE OF ILLINOIS
NINETY-SIXTH
GENERAL ASSEMBLY
HOUSE ROLL CALL
SENATE BILL 65
DISSOL-INTERIM ATTORNEYS FEES
THIRD READING
PASSED

May 21, 2009

117 YEAS

0 NAYS

0 PRESENT

Y Acevedo	Y Davis, Monique	Y Jefferson	Y Reis
Y Arroyo	Y Davis, William	Y Joyce	Y Reitz
Y Bassi	Y DeLuca	Y Kosel	Y Riley
Y Beaubien	Y Dugan	Y Lang	Y Rita
Y Beiser	Y Dunkin	Y Leitch	Y Rose
Y Bellock	Y Durkin	Y Lyons	Y Ryg
Y Berrios	Y Eddy	Y Mathias	Y Sacia
Y Biggins	Y Farnham	Y Mautino	Y Saviano
Y Black	Y Feigenholtz	Y May	Y Schmitz
Y Boland	Y Flider	Y McAsey	Y Senger
Y Bost	Y Flowers	Y McAuliffe	Y Smith
Y Bradley	Y Ford	Y McCarthy	Y Sommer
Y Brady	Y Fortner	Y McGuire	Y Soto
Y Brauer	Y Franks	Y Mell	Y Stephens
Y Brosnahan	Y Fritchey	Y Mendoza	Y Sullivan
Y Burke	Y Froehlich	Y Miller	Y Thapedi
Y Burns	Y Golar	Y Mitchell, Bill	Y Tracy
Y Cavaletto	Y Gordon, Careen	Y Mitchell, Jerry	Y Tryon
Y Chapa LaVia	Y Gordon, Jehan	Y Moffitt	Y Turner
Y Coladipietro	Y Graham	Y Mulligan	Y Verschoore
Y Cole	Y Hamos	Y Myers	Y Wait
Y Collins	Y Hannig	Y Nekritz	Y Walker
Y Colvin	Y Harris	Y Osmond	E Washington
Y Connelly	Y Hatcher	Y Osterman	Y Watson
Y Coulson	Y Hernandez	Y Phelps	Y Winters
Y Crespo	Y Hoffman	Y Pihos	Y Yarbrough
Y Cross	Y Holbrook	Y Poe	Y Zalewski
Y Cultra	Y Howard	Y Pritchard	Y Mr. Speaker
Y Currie	Y Jackson	Y Ramey	
Y D'Amico	Y Jakobsson	Y Reboletti	

E - Denotes Excused Absence

STATE OF ILLINOIS
 NINETY-SIXTH
 GENERAL ASSEMBLY
 HOUSE ROLL CALL
 SENATE BILL 89
 PROP TX-PETROCHEMICAL VALUE
 THIRD READING
 PASSED

May 21, 2009

115 YEAS

0 NAYS

2 PRESENT

Y Acevedo	Y Davis, Monique	Y Jefferson	Y Reis
Y Arroyo	Y Davis, William	Y Joyce	Y Reitz
Y Bassi	Y DeLuca	Y Kosel	Y Riley
Y Beaubien	Y Dugan	Y Lang	Y Rita
Y Beiser	Y Dunkin	Y Leitch	Y Rose
Y Bellock	Y Durkin	Y Lyons	Y Ryg
Y Berrios	Y Eddy	Y Mathias	Y Sacia
Y Biggins	Y Farnham	Y Mautino	Y Saviano
Y Black	Y Feigenholtz	Y May	Y Schmitz
Y Boland	Y Flider	Y McAsey	Y Senger
Y Bost	Y Flowers	Y McAuliffe	Y Smith
Y Bradley	Y Ford	Y McCarthy	Y Sommer
Y Brady	Y Fortner	Y McGuire	Y Soto
Y Brauer	Y Franks	Y Mell	Y Stephens
Y Brosnahan	Y Fritchey	Y Mendoza	Y Sullivan
Y Burke	Y Froehlich	Y Miller	Y Thapedi
Y Burns	Y Golar	Y Mitchell, Bill	Y Tracy
Y Cavaletto	Y Gordon, Careen	Y Mitchell, Jerry	Y Tryon
Y Chapa LaVia	Y Gordon, Jehan	Y Moffitt	Y Turner
P Coladipietro	Y Graham	Y Mulligan	Y Verschoore
Y Cole	Y Hamos	Y Myers	Y Wait
Y Collins	Y Hannig	Y Nekritz	Y Walker
Y Colvin	Y Harris	Y Osmond	E Washington
Y Connelly	Y Hatcher	Y Osterman	Y Watson
Y Coulson	Y Hernandez	Y Phelps	Y Winters
Y Crespo	Y Hoffman	Y Pihos	Y Yarbrough
Y Cross	Y Holbrook	Y Poe	Y Zalewski
Y Cultra	Y Howard	Y Pritchard	P Mr. Speaker
Y Currie	Y Jackson	Y Ramey	
Y D'Amico	Y Jakobsson	Y Reboletti	

E - Denotes Excused Absence

STATE OF ILLINOIS
NINETY-SIXTH
GENERAL ASSEMBLY
HOUSE ROLL CALL
SENATE BILL 138
CDB LOCAL BUILDING CODES
THIRD READING
PASSED

May 21, 2009

90 YEAS

27 NAYS

0 PRESENT

Y Acevedo	Y Davis, Monique	Y Jefferson	N Reis
Y Arroyo	Y Davis, William	Y Joyce	Y Reitz
Y Bassi	Y DeLuca	Y Kosel	Y Riley
Y Beaubien	Y Dugan	Y Lang	Y Rita
Y Beiser	Y Dunkin	N Leitch	N Rose
Y Bellock	N Durkin	Y Lyons	Y Ryg
Y Berrios	N Eddy	Y Mathias	N Sacia
N Biggins	Y Farnham	Y Mautino	Y Saviano
N Black	Y Feigenholtz	Y May	N Schmitz
Y Boland	Y Flider	Y McAsey	Y Senger
N Bost	Y Flowers	Y McAuliffe	Y Smith
Y Bradley	Y Ford	Y McCarthy	N Sommer
N Brady	Y Fortner	Y McGuire	Y Soto
Y Brauer	Y Franks	Y Mell	N Stephens
Y Brosnahan	Y Fritchey	Y Mendoza	Y Sullivan
Y Burke	Y Froehlich	Y Miller	Y Thapedi
Y Burns	Y Golar	N Mitchell, Bill	N Tracy
N Cavaletto	Y Gordon, Careen	N Mitchell, Jerry	Y Tryon
Y Chapa LaVia	Y Gordon, Jehan	Y Moffitt	Y Turner
Y Coladipietro	Y Graham	Y Mulligan	Y Verschoore
Y Cole	Y Hamos	N Myers	Y Wait
Y Collins	Y Hannig	Y Nekritz	Y Walker
Y Colvin	Y Harris	N Osmond	E Washington
N Connelly	N Hatcher	Y Osterman	N Watson
N Coulson	Y Hernandez	Y Phelps	Y Winters
Y Crespo	Y Hoffman	N Pihos	Y Yarbrough
N Cross	Y Holbrook	Y Poe	Y Zalewski
N Cultra	Y Howard	N Pritchard	Y Mr. Speaker
Y Currie	Y Jackson	Y Ramey	
Y D'Amico	Y Jakobsson	Y Reboletti	

E - Denotes Excused Absence

STATE OF ILLINOIS
 NINETY-SIXTH
 GENERAL ASSEMBLY
 HOUSE ROLL CALL
 HOUSE BILL 255
 ESTATE AND GST TAX-QTIP
 MOTION TO CONCUR IN SENATE AMENDMENTS NO. 1, 3
 CONCURRED

May 21, 2009

86 YEAS

30 NAYS

1 PRESENT

Y Acevedo	Y Davis, Monique	Y Jefferson	N Reis
Y Arroyo	Y Davis, William	Y Joyce	Y Reitz
N Bassi	Y DeLuca	Y Kosel	Y Riley
Y Beaubien	Y Dugan	Y Lang	Y Rita
Y Beiser	Y Dunkin	Y Leitch	N Rose
N Bellock	Y Durkin	Y Lyons	Y Ryg
Y Berrios	Y Eddy	N Mathias	Y Sacia
N Biggins	N Farnham	Y Mautino	Y Saviano
Y Black	Y Feigenholtz	Y May	Y Schmitz
Y Boland	Y Flider	N McAsey	Y Senger
Y Bost	Y Flowers	N McAuliffe	Y Smith
Y Bradley	Y Ford	Y McCarthy	N Sommer
Y Brady	N Fortner	Y McGuire	Y Soto
Y Brauer	N Franks	Y Mell	Y Stephens
Y Brosnahan	P Fritchey	Y Mendoza	Y Sullivan
Y Burke	N Froehlich	Y Miller	Y Thapedi
Y Burns	Y Golar	N Mitchell, Bill	Y Tracy
N Cavaletto	Y Gordon, Careen	Y Mitchell, Jerry	Y Tryon
Y Chapa LaVia	N Gordon, Jehan	Y Moffitt	Y Turner
N Coladipietro	Y Graham	N Mulligan	Y Verschoore
N Cole	Y Hamos	Y Myers	N Wait
Y Collins	Y Hannig	Y Nekritz	N Walker
Y Colvin	Y Harris	Y Osmond	E Washington
N Connelly	N Hatcher	Y Osterman	Y Watson
N Coulson	Y Hernandez	Y Phelps	Y Winters
N Crespo	Y Hoffman	N Pihos	Y Yarbrough
Y Cross	Y Holbrook	Y Poe	Y Zalewski
N Cultra	Y Howard	N Pritchard	Y Mr. Speaker
Y Currie	Y Jackson	N Ramey	
Y D'Amico	Y Jakobsson	N Reboletti	

E - Denotes Excused Absence

STATE OF ILLINOIS
NINETY-SIXTH
GENERAL ASSEMBLY
HOUSE ROLL CALL
HOUSE BILL 312
\$GEN ASSEMBLY-TECH
MOTION TO CONCUR IN SENATE AMENDMENTS NO. 1, 2
CONCURRED

May 21, 2009

117 YEAS

0 NAYS

0 PRESENT

Y Acevedo	Y Davis, Monique	Y Jefferson	Y Reis
Y Arroyo	Y Davis, William	Y Joyce	Y Reitz
Y Bassi	Y DeLuca	Y Kosel	Y Riley
Y Beaubien	Y Dugan	Y Lang	Y Rita
Y Beiser	Y Dunkin	Y Leitch	Y Rose
Y Bellock	Y Durkin	Y Lyons	Y Ryg
Y Berrios	Y Eddy	Y Mathias	Y Sacia
Y Biggins	Y Farnham	Y Mautino	Y Saviano
Y Black	Y Feigenholtz	Y May	Y Schmitz
Y Boland	Y Flider	Y McAsey	Y Senger
Y Bost	Y Flowers	Y McAuliffe	Y Smith
Y Bradley	Y Ford	Y McCarthy	Y Sommer
Y Brady	Y Fortner	Y McGuire	Y Soto
Y Brauer	Y Franks	Y Mell	Y Stephens
Y Brosnahan	Y Fritchey	Y Mendoza	Y Sullivan
Y Burke	Y Froehlich	Y Miller	Y Thapedi
Y Burns	Y Golar	Y Mitchell, Bill	Y Tracy
Y Cavaletto	Y Gordon, Careen	Y Mitchell, Jerry	Y Tryon
Y Chapa LaVia	Y Gordon, Jehan	Y Moffitt	Y Turner
Y Coladipietro	Y Graham	Y Mulligan	Y Verschoore
Y Cole	Y Hamos	Y Myers	Y Wait
Y Collins	Y Hannig	Y Nekritz	Y Walker
Y Colvin	Y Harris	Y Osmond	E Washington
Y Connelly	Y Hatcher	Y Osterman	Y Watson
Y Coulson	Y Hernandez	Y Phelps	Y Winters
Y Crespo	Y Hoffman	Y Pihos	Y Yarbrough
Y Cross	Y Holbrook	Y Poe	Y Zalewski
Y Cultra	Y Howard	Y Pritchard	Y Mr. Speaker
Y Currie	Y Jackson	Y Ramey	
Y D'Amico	Y Jakobsson	Y Reboletti	

E - Denotes Excused Absence

STATE OF ILLINOIS
 NINETY-SIXTH
 GENERAL ASSEMBLY
 HOUSE ROLL CALL
 HOUSE BILL 2400
 PROMPT PAYMENT-MH/DD SERVICES
 MOTION TO CONCUR IN SENATE AMENDMENTS NO. 1, 2
 CONCURRED

May 21, 2009

117 YEAS

0 NAYS

0 PRESENT

Y Acevedo	Y Davis, Monique	Y Jefferson	Y Reis
Y Arroyo	Y Davis, William	Y Joyce	Y Reitz
Y Bassi	Y DeLuca	Y Kosel	Y Riley
Y Beaubien	Y Dugan	Y Lang	Y Rita
Y Beiser	Y Dunkin	Y Leitch	Y Rose
Y Bellock	Y Durkin	Y Lyons	Y Ryg
Y Berrios	Y Eddy	Y Mathias	Y Sacia
Y Biggins	Y Farnham	Y Mautino	Y Saviano
Y Black	Y Feigenholtz	Y May	Y Schmitz
Y Boland	Y Flider	Y McAsey	Y Senger
Y Bost	Y Flowers	Y McAuliffe	Y Smith
Y Bradley	Y Ford	Y McCarthy	Y Sommer
Y Brady	Y Fortner	Y McGuire	Y Soto
Y Brauer	Y Franks	Y Mell	Y Stephens
Y Brosnahan	Y Fritchey	Y Mendoza	Y Sullivan
Y Burke	Y Froehlich	Y Miller	Y Thapedi
Y Burns	Y Golar	Y Mitchell, Bill	Y Tracy
Y Cavaletto	Y Gordon, Careen	Y Mitchell, Jerry	Y Tryon
Y Chapa LaVia	Y Gordon, Jehan	Y Moffitt	Y Turner
Y Coladipietro	Y Graham	Y Mulligan	Y Verschoore
Y Cole	Y Hamos	Y Myers	Y Wait
Y Collins	Y Hannig	Y Nekritz	Y Walker
Y Colvin	Y Harris	Y Osmond	E Washington
Y Connelly	Y Hatcher	Y Osterman	Y Watson
Y Coulson	Y Hernandez	Y Phelps	Y Winters
Y Crespo	Y Hoffman	Y Pihos	Y Yarbrough
Y Cross	Y Holbrook	Y Poe	Y Zalewski
Y Cultra	Y Howard	Y Pritchard	Y Mr. Speaker
Y Currie	Y Jackson	Y Ramey	
Y D'Amico	Y Jakobsson	Y Reboletti	

E - Denotes Excused Absence

59TH LEGISLATIVE DAY

Perfunctory Session

THURSDAY, MAY 21, 2009

At the hour of 8:56 o'clock p.m., the House convened perfunctory session.

SENATE BILL ON SECOND READING

Having been reproduced, the following bill was taken up, read by title a second time and held on the order of Second Reading: SENATE BILL 337.

TEMPORARY COMMITTEE ASSIGNMENTS

Representative Harris replaced Representative Jehan Gordon in the Committee on Veterans' Affairs on May 21, 2009.

Representative Hannig replaced Representative Chapa LaVia in the Committee on Adoption Reform on May 21, 2009.

Representative Soto replaced Representative Crespo in the Committee on Disability Services on May 21, 2009.

Representative Pihos replaced Representative Sommer in the Committee on International Trade & Commerce on May 21, 2009.

Representative Wait replaced Representative Beaubien in the Committee on International Trade & Commerce on May 21, 2009.

Representative Sullivan replaced Representative Hatcher in the Committee on Counties & Townships on May 21, 2009.

Representative Chapa LaVia replaced Representative Crespo in the Committee on Elementary & Secondary Education on May 21, 2009.

Representative Watson replaced Representative Stephens in the Committee on Health & Healthcare Disparities on May 21, 2009.

Representative Miller replaced Representative Flowers in the Committee on Health & Healthcare Disparities on May 21, 2009.

Representative Osterman replaced Representative Flowers in the Committee on Human Services on May 21, 2009.

Representative Riley replaced Representative Howard in the Committee on Human Services on May 21, 2009.

Representative Coulson replaced Representative Schmitz in the Committee on Human Services on May 21, 2009.

REPORTS FROM STANDING COMMITTEES

Representative Bradley, Chairperson, from the Committee on Revenue & Finance to which the following were referred, action taken on May 21, 2009, reported the same back with the following recommendations:

That the Floor Amendment be reported “recommends be adopted”:

Amendment No. 2 to SENATE BILL 450.

The committee roll call vote on Amendment No. 2 to Senate Bill 450 is as follows:

9, Yeas; 0, Nays; 0, Answering Present.

Y Bradley(D), Chairperson	A Mautino(D), Vice-Chairperson
Y Biggins(R), Republican Spokesperson	A Bassi(R)
Y Beaubien(R)	Y Chapa LaVia(D)
Y Currie(D)	Y Eddy(R)
Y Ford(D)	Y Gordon, Careen(D)
A Sullivan(R)	A Turner(D)
Y Zalewski(D)	

Representative Harris, Chairperson, from the Committee on Youth and Family to which the following were referred, action taken on May 21, 2009, reported the same back with the following recommendations:

That the Motion be reported “recommends be adopted” and placed on the House Calendar:

Motion to concur with Senate Amendment No. 1 to HOUSE BILL 529.

The committee roll call vote on Motion to Concur with Senate Amendment No. 1 to House Bill 529 is as follows:

4, Yeas; 0, Nays; 0, Answering Present.

Y Harris(D), Chairperson	Y Ford(D), Vice-Chairperson
Y Fortner(R), Republican Spokesperson	A Burns(D)
Y McAuliffe(R)	A Riley(D)
A Winters(R)	

Representative McAuliffe, Chairperson, from the Committee on Veterans' Affairs to which the following were referred, action taken on May 21, 2009, reported the same back with the following recommendations:

That the resolution be reported “recommends be adopted” and be placed on the House Calendar: HOUSE RESOLUTION 379.

The committee roll call vote on House Resolution 379 is as follows:

17, Yeas; 0, Nays; 0, Answering Present.

Y McAuliffe(R), Chairperson	Y Chapa LaVia(D), Vice-Chairperson
Y Bost(R), Republican Spokesperson	Y Connelly(R)
Y Dugan(D)	Y Farnham(D)
Y Flider(D)	Y Franks(D)
Y Harris(D) (replacing Gordon, J)	Y Joyce(D)
Y Lyons(D)	Y McAsey(D)
Y Mitchell, Jerry(R)	A Moffitt(R)
Y Nekritz(D)	Y Osmond(R)
A Phelps(D)	Y Pritchard(R)
A Reboletti(R)	A Sacia(R)
A Verschoore(D)	A Wait(R)
Y Walker(D)	A Watson(R)

Representative Feigenholtz, Chairperson, from the Committee on Adoption Reform to which the following were referred, action taken on May 21, 2009, reported the same back with the following recommendations:

That the Motion be reported “recommends be adopted” and placed on the House Calendar:

Motion to concur with Senate Amendments numbered 1 and 2 to HOUSE BILL 2405.

The committee roll call vote on Motion to Concur with Senate Amendments Numbered 1 and 2 to House Bill 2405 is as follows:

3, Yeas; 2, Nays; 0, Answering Present.

Y Feigenholtz(D), Chairperson	N Sommer(R), Republican Spokesperson
Y Hannig(D) (replacing Chapa LaVia)	N Cole(R)
Y Jakobsson(D)	

Representative Ryg, Chairperson, from the Committee on Disability Services to which the following were referred, action taken on May 21, 2009, reported the same back with the following recommendations:

That the resolution be reported "recommends be adopted" and be placed on the House Calendar: SENATE JOINT RESOLUTION 54.

That the resolution be reported "recommends be adopted as amended" and be placed on the House Calendar: HOUSE JOINT RESOLUTION 28.

The committee roll call vote on Senate Joint Resolution 54 and House Joint Resolution 28 is as follows:

6, Yeas; 0, Nays; 0, Answering Present.

Y Ryg(D), Chairperson	Y Golar(D), Vice-Chairperson
Y Leitch(R), Republican Spokesperson	Y Coulson(R)
Y Soto(D) (replacing Crespo)	Y Hernandez(D)
A Pihos(R)	

Representative Mendoza, Chairperson, from the Committee on International Trade & Commerce to which the following were referred, action taken on May 21, 2009, reported the same back with the following recommendations:

That the resolution be reported "recommends be adopted" and be placed on the House Calendar: HOUSE RESOLUTION 339.

The committee roll call vote on House Resolution 339 is as follows:

7, Yeas; 0, Nays; 0, Answering Present.

Y Mendoza(D), Chairperson	A Franks(D), Vice-Chairperson
Y Pihos(R) (replacing Sommer)	Y Wait(R) (replacing Beaubien)
A Berrios(D)	Y Coladipietro(R)
Y Davis, William(D)	A Dunkin(D)
A Sacia(R)	Y Senger(R)
Y Walker(D)	

Representative Verschoore, Chairperson, from the Committee on Counties & Townships to which the following were referred, action taken on May 21, 2009, reported the same back with the following recommendations:

That the bill be reported "do pass as amended" and be placed on the order of Second Reading-- Short Debate: SENATE BILL 337.

That the Floor Amendment be reported "recommends be adopted": Amendment No. 2 to SENATE BILL 1995.

That the resolution be reported "recommends be adopted" and be placed on the House Calendar: HOUSE RESOLUTION 352.

That the Motion be reported "recommends be adopted" and placed on the House Calendar: Motion to concur with Senate Amendment No. 1 to HOUSE BILL 883.

The committee roll call vote on Senate Bill 337, Amendment No. 2 to Senate Bill 1995, House Resolution 352, and Motion to Concur with Senate Amendment No. 1 to House Bill 883, is as follows:

9, Yeas; 0, Nays; 0, Answering Present.

Y Verschoore(D), Chairperson	Y Zalewski(D), Vice-Chairperson
Y Ramey(R), Republican Spokesperson	Y Sullivan(R) (replacing Hatcher)
Y Mitchell, Bill(R)	Y Moffitt(R)
Y Reitz(D)	Y Riley(D)
Y Rita(D)	

The committee roll call vote on Senate Bill 337 and House Resolution 352 is as follows:
9, Yeas; 0, Nays; 0, Answering Present.

Y Verschoore(D), Chairperson	Y Zalewski(D), Vice-Chairperson
Y Ramey(R), Republican Spokesperson	Y Hatcher(R)
Y Mitchell, Bill(R)	Y Moffitt(R)
Y Reitz(D)	Y Riley(D)
Y Rita(D)	

Representative Smith, Chairperson, from the Committee on Elementary & Secondary Education to which the following were referred, action taken on May 21, 2009, reported the same back with the following recommendations:

That the resolution be reported “recommends be adopted” and be placed on the House Calendar:
HOUSE JOINT RESOLUTION 53.

The committee roll call vote on House Joint Resolution 53 is as follows:
14, Yeas; 1, Nay; 0, Answering Present.

Y Smith(D), Chairperson	Y Chapa LaVia(D) (replacing Crespo)
Y Mitchell, Jerry(R), Republican Spokesperson	Y Bassi(R)
Y Cavaletto(R)	Y Colvin(D)
Y Davis, Monique(D)	A Dugan(D)
Y Eddy(R)	Y Flider(D)
Y Froehlich(D)	A Golar(D)
A Miller(D)	Y Osterman(D)
N Pihos(R)	Y Pritchard(R)
A Reis(R)	Y Senger(R)
A Watson(R)	Y Yarbrough(D)

Representative Jakobsson, Chairperson, from the Committee on Human Services to which the following were referred, action taken on May 21, 2009, reported the same back with the following recommendations:

That the Floor Amendment be reported “recommends be adopted”:
Amendment No. 1 to SENATE BILL 807.
Amendment No. 2 to SENATE BILL 2043.

That the resolutions be reported “recommends be adopted” and be placed on the House Calendar:
SENATE JOINT RESOLUTIONS 3, 7 and 31.

That the Motion be reported “recommends be adopted” and placed on the House Calendar:
Motion to concur with Senate Amendment No. 1 to HOUSE BILL 746.

The committee roll call vote on Senate Joint Resolutions 3, 7, 31, and Senate Amendment No. 1 to House Bill 746 and Senate Amendment No. 2 to Senate Bill 2043 is as follows:
7, Yeas; 0, Nays; 0, Answering Present.

Y Jakobsson(D), Chairperson	Y Riley(D) (replacing Howard)
Y Bellock(R), Republican Spokesperson	Y Cole(R)
Y Collins(D)	Y Osterman(D) (replacing Flowers)
Y Coulson(R) (replacing Schmitz)	

The committee roll call vote on Amendment No. 1 to Senate Bill 807 is as follows:
4, Yeas; 0, Nays; 0, Answering Present.

Y Jakobsson(D), Chairperson	Y Riley(D) (replacing Howard)
Y Bellock(R), Republican Spokesperson	A Cole(R)
Y Collins(D)	A Osterman(D) (replacing Flowers)
A Coulson(R) (replacing Schmitz)	

Representative Howard, Chairperson, from the Committee on Judiciary II - Criminal Law to which the following were referred, action taken on May 21, 2009, reported the same back with the following recommendations:

That the Motion be reported “recommends be adopted” and placed on the House Calendar: Motion to concur with Senate Amendment No. 1 to HOUSE BILL 3717.

That the resolution be reported “recommends be adopted” and be placed on the House Calendar: SENATE JOINT RESOLUTION 6.

The committee roll call vote on Senate Joint Resolution 6 and Motion to concur with Senate Amendment No. 1 to HOUSE BILL 3717 is as follows:

5, Yeas; 0, Nays; 0, Answering Present.

Y Howard(D), Chairperson	A Collins(D), Vice-Chairperson
Y Reboletti(R), Republican Spokesperson	Y Golar(D)
Y McAsey(D)	Y Sacia(R)
A Wait(R)	

Representative William Davis, Chairperson, from the Committee on Health & Healthcare Disparities to which the following were referred, action taken on May 21, 2009, reported the same back with the following recommendations:

That the resolution be reported “recommends be adopted” and be placed on the House Calendar: HOUSE RESOLUTION 391.

The committee roll call vote on House Resolution 391 is as follows:

8, Yeas; 0, Nays; 0, Answering Present.

Y Davis, William(D), Chairperson	Y Rita(D), Vice-Chairperson
Y Coulson(R), Republican Spokesperson	Y Boland(D)
A Burns(D)	Y Miller(D) (replacing Flowers)
Y Gordon, Jehan(D)	Y Hernandez(D)
A Leitch(R)	A Ramey(R)
A Saviano(R)	Y Watson(R) (replacing Stephens)

INTRODUCTION AND FIRST READING OF BILLS

The following bills were introduced, read by title a first time, ordered reproduced and placed in the Committee on Rules:

HOUSE BILL 4567. Introduced by Representative Moffitt, AN ACT concerning education.

HOUSE BILL 4568. Introduced by Representative Tryon, AN ACT concerning State government.

SENATE RESOLUTION

The following Senate Joint Resolution, received from the Senate, was read by the Clerk and referred to the Committee on Rules: SENATE JOINT RESOLUTION 4 (Fortner).

At the hour of 8:59 o'clock p.m., the House Perfunctory Session adjourned.