



Rep. Elaine Nekritz

**Filed: 3/17/2004**

09300HB4076ham001

LRB093 15213 MKM 48691 a

1 AMENDMENT TO HOUSE BILL 4076

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4076 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Income Tax Act is amended by  
5 changing Section 917 as follows:

6 (35 ILCS 5/917) (from Ch. 120, par. 9-917)

7 Sec. 917. Confidentiality and information sharing.

8 (a) Confidentiality. Except as provided in this Section,  
9 all information received by the Department from returns filed  
10 under this Act, or from any investigation conducted under the  
11 provisions of this Act, shall be confidential, except for  
12 official purposes within the Department or pursuant to official  
13 procedures for collection of any State tax or pursuant to an  
14 investigation or audit by the Illinois State Scholarship  
15 Commission of a delinquent student loan or monetary award or  
16 enforcement of any civil or criminal penalty or sanction  
17 imposed by this Act or by another statute imposing a State tax,  
18 and any person who divulges any such information in any manner,  
19 except for such purposes and pursuant to order of the Director  
20 or in accordance with a proper judicial order, shall be guilty  
21 of a Class A misdemeanor. However, the provisions of this  
22 paragraph are not applicable to information furnished to (i)  
23 the Department of Public Aid, State's Attorneys, and the  
24 Attorney General for child support enforcement purposes and

1 (ii) a licensed attorney representing the taxpayer where an  
2 appeal or a protest has been filed on behalf of the taxpayer.  
3 If it is necessary to file information obtained pursuant to  
4 this Act in a child support enforcement proceeding, the  
5 information shall be filed under seal.

6 (b) Public information. Nothing contained in this Act shall  
7 prevent the Director from publishing or making available to the  
8 public the names and addresses of persons filing returns under  
9 this Act, or from publishing or making available reasonable  
10 statistics concerning the operation of the tax wherein the  
11 contents of returns are grouped into aggregates in such a way  
12 that the information contained in any individual return shall  
13 not be disclosed.

14 (c) Governmental agencies. The Director may make available  
15 to the Secretary of the Treasury of the United States or his  
16 delegate, or the proper officer or his delegate of any other  
17 state imposing a tax upon or measured by income, for  
18 exclusively official purposes, information received by the  
19 Department in the administration of this Act, but such  
20 permission shall be granted only if the United States or such  
21 other state, as the case may be, grants the Department  
22 substantially similar privileges. The Director may exchange  
23 information with the Illinois Department of Public Aid and the  
24 Department of Human Services (acting as successor to the  
25 Department of Public Aid under the Department of Human Services  
26 Act) for the purpose of verifying sources and amounts of income  
27 and for other purposes directly connected with the  
28 administration of this Act and the Illinois Public Aid Code.  
29 The Director may exchange information with the Director of the  
30 Department of Employment Security for the purpose of verifying  
31 sources and amounts of income and for other purposes directly  
32 connected with the administration of this Act and Acts  
33 administered by the Department of Employment Security. The  
34 Director may make available to the Illinois Industrial

1 Commission information regarding employers for the purpose of  
2 verifying the insurance coverage required under the Workers'  
3 Compensation Act and Workers' Occupational Diseases Act.

4 The Director may make available to any State agency,  
5 including the Illinois Supreme Court, which licenses persons to  
6 engage in any occupation, information that a person licensed by  
7 such agency has failed to file returns under this Act or pay  
8 the tax, penalty and interest shown therein, or has failed to  
9 pay any final assessment of tax, penalty or interest due under  
10 this Act. The Director may make available to any State agency,  
11 including the Illinois Supreme Court, information regarding  
12 whether a bidder, contractor, or an affiliate of a bidder or  
13 contractor has failed to file returns under this Act or pay the  
14 tax, penalty, and interest shown therein, or has failed to pay  
15 any final assessment of tax, penalty, or interest due under  
16 this Act, for the limited purpose of enforcing bidder and  
17 contractor certifications. For purposes of this Section, the  
18 term "affiliate" means any entity that (1) directly,  
19 indirectly, or constructively controls another entity, (2) is  
20 directly, indirectly, or constructively controlled by another  
21 entity, or (3) is subject to the control of a common entity.  
22 For purposes of this subsection (a), an entity controls another  
23 entity if it owns, directly or individually, more than 10% of  
24 the voting securities of that entity. As used in this  
25 subsection (a), the term "voting security" means a security  
26 that (1) confers upon the holder the right to vote for the  
27 election of members of the board of directors or similar  
28 governing body of the business or (2) is convertible into, or  
29 entitles the holder to receive upon its exercise, a security  
30 that confers such a right to vote. A general partnership  
31 interest is a voting security.

32 The Director may make available to any State agency,  
33 including the Illinois Supreme Court, units of local  
34 government, and school districts, information regarding

1 whether a bidder or contractor is an affiliate of a person who  
2 is not collecting and remitting Illinois Use taxes, for the  
3 limited purpose of enforcing bidder and contractor  
4 certifications.

5 The Director may also make available to the Secretary of  
6 State information that a corporation which has been issued a  
7 certificate of incorporation by the Secretary of State has  
8 failed to file returns under this Act or pay the tax, penalty  
9 and interest shown therein, or has failed to pay any final  
10 assessment of tax, penalty or interest due under this Act. An  
11 assessment is final when all proceedings in court for review of  
12 such assessment have terminated or the time for the taking  
13 thereof has expired without such proceedings being instituted.  
14 For taxable years ending on or after December 31, 1987, the  
15 Director may make available to the Director or principal  
16 officer of any Department of the State of Illinois, information  
17 that a person employed by such Department has failed to file  
18 returns under this Act or pay the tax, penalty and interest  
19 shown therein. For purposes of this paragraph, the word  
20 "Department" shall have the same meaning as provided in Section  
21 3 of the State Employees Group Insurance Act of 1971.

22 (d) The Director shall make available for public inspection  
23 in the Department's principal office and for publication, at  
24 cost, administrative decisions issued on or after January 1,  
25 1995. These decisions are to be made available in a manner so  
26 that the following taxpayer information is not disclosed:

27 (1) The names, addresses, and identification numbers  
28 of the taxpayer, related entities, and employees.

29 (2) At the sole discretion of the Director, trade  
30 secrets or other confidential information identified as  
31 such by the taxpayer, no later than 30 days after receipt  
32 of an administrative decision, by such means as the  
33 Department shall provide by rule.

34 The Director shall determine the appropriate extent of the

1 deletions allowed in paragraph (2). In the event the taxpayer  
2 does not submit deletions, the Director shall make only the  
3 deletions specified in paragraph (1).

4 The Director shall make available for public inspection and  
5 publication an administrative decision within 180 days after  
6 the issuance of the administrative decision. The term  
7 "administrative decision" has the same meaning as defined in  
8 Section 3-101 of Article III of the Code of Civil Procedure.  
9 Costs collected under this Section shall be paid into the Tax  
10 Compliance and Administration Fund.

11 (e) Nothing contained in this Act shall prevent the  
12 Director from divulging information to any person pursuant to a  
13 request or authorization made by the taxpayer, by an authorized  
14 representative of the taxpayer, or, in the case of information  
15 related to a joint return, by the spouse filing the joint  
16 return with the taxpayer.

17 (Source: P.A. 93-25, eff. 6-20-03.)

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