



Sen. Debbie DeFrancesco Halvorson

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1 AMENDMENT TO SENATE BILL 11

2 AMENDMENT NO. _____. Amend Senate Bill 11 by replacing
3 everything after the enacting clause with the following:

4 "Article 1. GENERAL PROVISIONS

5 Section 1-1. Short title. This Act may be cited as the
6 Healthy Illinois Act.

7 Section 1-5. Purpose. Health care costs are rising rapidly
8 and challenging Illinois' capacity to provide accessible,
9 high-quality health care. Small businesses and individuals do
10 not have adequate access to affordable health insurance in this
11 State. Large employers, providers, and insurers lack guidance
12 concerning appropriate health care quality and cost
13 containment. The absence of appropriate statewide data on
14 health care hinders the planning needed to ensure access,
15 quality, and affordability. This legislation creates Healthy
16 Illinois, a 3-part program that will provide access to
17 affordable coverage for small businesses and individuals
18 through the Healthy Illinois Plan, initiate new strategies for
19 health care quality improvement and cost containment through
20 the Healthy Illinois Quality Forum, and gather and disseminate
21 through the Health Resource Plan the information needed to
22 ensure that all Illinoisans have access to quality, affordable
23 health care.

1 Section 1-10. Definitions. As used in this Act:

2 "Eligible business" means a business that employs at least
3 2 but not more than 50 employees, at least two-thirds of whom
4 are employed in the State, including a municipality or other
5 public sector entity that has at least 2 but not more than 50
6 employees. Beginning one year after Healthy Illinois has been
7 providing health insurance benefits, the Authority may, by
8 rule, define "eligible business" to include larger public or
9 private employers.

10 "Eligible employee" means an employee of an eligible
11 business who works at least 20 hours per week for that eligible
12 business. "Eligible employee" does not include an employee who
13 works on a temporary or substitute basis or who does not work
14 at least 26 weeks annually. New employees meet the 26-week
15 requirement if they are expected to work at least 26 weeks in
16 their first year of employment.

17 "Eligible individual" means any Illinois resident,
18 including any dependents thereof.

19 "Healthy Illinois Plan" means the health insurance plan
20 established by the Healthy Illinois Authority that is offered
21 by a private health insurance carrier or carriers, or by the
22 Healthy Illinois Authority itself.

23 "Resident" means any person whose primary home is in
24 Illinois.

25 Article 5. THE HEALTHY ILLINOIS AUTHORITY

26 Section 5-5. Healthy Illinois Authority Established. The
27 Healthy Illinois Authority is established as an agency in the
28 executive branch of State government to arrange for the
29 provision of comprehensive, affordable health care coverage to
30 eligible businesses, including employees and their dependents,
31 the self-employed and their dependents, and eligible

1 individuals on a voluntary basis through the Healthy Illinois
2 Plan. The Authority shall also monitor and improve the quality
3 of health care in this State through administration of the
4 Healthy Illinois Quality Forum. The Authority shall also
5 develop the Health Resource Plan, focused on gathering and
6 disseminating the information and plans needed to ensure the
7 provision of quality, affordable employee health care in
8 Illinois.

9 Section 5-10. Powers and duties of the Authority. Subject
10 to any limitation contained in this Act or in any other law,
11 the Authority shall have and exercise all powers necessary or
12 convenient to effectuate the purposes for which the Authority
13 is organized or to further the activities in which the
14 Authority may lawfully be engaged, including, but not limited
15 to, the establishment of the Healthy Illinois Plan, the
16 administration of the Healthy Illinois Quality Forum, and the
17 development and promulgation of the Health Resource Plan.

18 Section 5-15. The Healthy Illinois Authority Fund. The
19 Healthy Illinois Authority Fund is created as a special fund in
20 the State treasury for the deposit of any funds advanced for
21 initial operating expenses, payments made by employers and
22 individuals, any uncompensated care savings payments made
23 pursuant to Section 10-20 of this Act, and any funds received
24 from any public or private source. The Fund is exempt from the
25 provisions of subsection (c) of Section 5 of the State Finance
26 Act and shall not lapse, but must be carried forward to carry
27 out the purposes of this Act.

28 Article 10. HEALTHY ILLINOIS PLAN

29 Section 10-5. Healthy Illinois Plan. The Authority shall
30 begin to provide health benefits coverage through the Healthy

1 Illinois Plan not later than 12 months after entering into
2 contracts with one or more qualified bidders to administer plan
3 benefits. The Healthy Illinois Plan must comply with all
4 relevant requirements of this Article. The Authority shall
5 select one or more entities to administer the Healthy Illinois
6 Plan through a competitive request for proposal process to
7 identify those that most fully meet qualifications described in
8 this Article and any additional qualifications set by the
9 Authority.

10 Section 10-10. Healthy Illinois Plan administration.

11 (a) The Healthy Illinois Plan shall include a
12 comprehensive package that meets the requirements for mandated
13 coverage for specific health services and specific diseases and
14 for certain providers of health services under the Illinois
15 Insurance Code and any supplemental benefits the Authority
16 wishes to make available.

17 (b) The Authority shall establish the minimum required
18 contribution levels, not to exceed 60%, to be paid by eligible
19 businesses toward the aggregate payment. The Authority may
20 establish a separate minimum contribution level to be paid by
21 eligible businesses toward coverage for dependents of the
22 eligible business's enrolled employees.

23 (c) The Authority shall require participating employers to
24 certify that at least 75% of their employees that work 20 hours
25 or more per week are either enrolled in the Healthy Illinois
26 Plan or have other creditable coverage.

27 (d) The Authority shall reduce the required payment amounts
28 for plan enrollees eligible for a subsidy under Section 10-15
29 of this Act in accordance with the enrollee's subsidy amount.
30 The Authority shall notify both the plan enrollee and the
31 employer, if applicable, of both the subsidy and the new
32 required payment amount so that the employer, where applicable,
33 can reduce the amount deducted or otherwise set aside for the

1 enrollee's premium share.

2 (e) Participating employers shall make payments on behalf
3 of both the employer and its enrolled employees.

4 Section 10-15. Subsidies. The Authority shall establish
5 sliding-scale subsidies for the purchase of the Healthy
6 Illinois Plan by eligible employees and individuals whose
7 household income is under 300% of the federal poverty level and
8 who are not eligible for Medicaid.

9 Section 10-20. Uncompensated care savings payments. For
10 the purpose of providing the funds necessary to provide
11 subsidies pursuant to Section 10-15 of this Act and support the
12 Healthy Illinois Quality Forum and because the operation of the
13 Healthy Illinois Plan will control health care costs through
14 the reduction of uncompensated care, health insurance carriers
15 and employee benefit excess insurance carriers shall pay to the
16 Authority 4% of annual health insurance premiums and employee
17 benefit excess insurance premiums on policies issued pursuant
18 to the laws of this State that insure residents of this State.

19 Article 15. HEALTH CARE QUALITY

20 Section 15-5. Healthy Illinois Quality Forum. The Healthy
21 Illinois Quality Forum, referred to in this Article as the
22 "Forum", is established within the Authority. The Forum shall
23 be funded, at least in part, through the uncompensated care
24 savings payments made pursuant to Section 10-20 of this Act.
25 Information obtained by the Forum is a public record within the
26 meaning in Section 2 of the Freedom of Information Act. All
27 duties performed by the Forum shall be done in a manner
28 consistent with and not in duplication of the requirements of
29 the Hospital Report Card Act.

1 Section 15-10. Duties. The Forum shall perform the
2 following duties:

3 (1) Gathering and disseminating information on health care
4 quality and patient safety.

5 (2) Research on best practice in Illinois, including, but
6 not limited to, the following:

7 (A) Collecting information from Illinois health care
8 providers, insurers, third party administrators, and
9 others that are currently utilizing practices designed to
10 increase health care quality and patient safety, focusing
11 on those practices where a positive impact has been
12 documented and where the information needed for others to
13 replicate the practice is available. The Forum shall seek
14 to include examples of effective uses of electronic
15 technology for such things as medical records and physical
16 order entry.

17 (B) Dissemination of information on effective
18 practices in Illinois through public reports, conferences,
19 and other appropriate vehicles. The Authority with
20 guidance from the Forum, including its advisory council,
21 shall provide technical assistance to health care
22 providers, insurers, and other entities that plan to
23 implement proven practices that have been demonstrated to
24 have a material positive impact on health care quality and
25 patient safety in Illinois.

26 (3) Evaluation and comparison of health care quality and
27 provider performance, including, but not limited to, the
28 following:

29 (A) The Forum shall identify existing valid and
30 reliable measures of health care quality and provider
31 performance that are already in use in Illinois and
32 nationally.

33 (B) The Forum shall disseminate information on those
34 measures to Illinois health care providers, insurers, and

1 others.

2 (C) By the third year of operation, the Forum shall
3 recommend an initial set of measures that all Illinois
4 providers, insurers, and others, as appropriate, should
5 adopt. If after a reasonable period one or more measures
6 are not adopted, the Authority may adopt rules to better
7 ensure the adoption of those measures. The Forum shall
8 provide guidance on data collection and submission
9 protocols with the minimum possible burden for the
10 providers of data.

11 Article 20. HEALTH RESOURCE PLAN

12 Section 20-5. Duties of the Authority related to the Health
13 Resource Plan.

14 (a) The Authority shall do all of the following:

15 (1) develop and issue the biennial Health Resource
16 Plan, referred to in this Article as the "plan". The first
17 plan shall be issued by May 31, 2006;

18 (2) make an annual report to the public assessing the
19 progress toward meeting goals of the plan and provide any
20 needed updates to the plan; and

21 (3) issue an annual statewide health expenditure
22 budget report that shall serve as the basis for
23 establishing priorities within the plan.

24 (b) The Authority shall provide the reports specified in
25 paragraphs (2) and (3) of subsection (a) of this Section to the
26 General Assembly.

27 Section 20-10. Health Resource Plan. The plan, issued
28 pursuant to Section 20-5 of this Act, must set forth a
29 comprehensive, coordinated approach to the development of
30 health care facilities and resources in the State based on
31 statewide cost, quality, and access goals and strategies to

1 ensure access to affordable health care, maintain a rational
2 system of health care, and promote the development of the
3 health care workforce.

4 Article 25. COST CONTAINMENT

5 Section 25-5. Voluntary restraint. In order to control the
6 rate of growth of costs of health care and health coverage:

7 (1) Each health care practitioner licensed under the
8 Medical Practice Act of 1987 shall make every effort to
9 limit the growth of net revenue of the practitioner's
10 practice to 3% for the practitioner's fiscal year beginning
11 on or after July 1, 2006 and for every fiscal year
12 thereafter.

13 (2) Each hospital licensed under the Hospital
14 Licensing Act shall make every effort to restrain cost
15 increases, as measured as expenses for case mix adjusted
16 discharge, to no more than 3.5% for the hospital fiscal
17 year beginning on or after July 1, 2006 and for every
18 fiscal year thereafter. Each hospital licensed under the
19 Hospital Licensing Act shall make every effort to hold
20 hospital consolidated operating margins to no more than 3%
21 for the hospital's fiscal year beginning on or after July
22 1, 2006 and for every fiscal year thereafter.

23 (3) Each health insurance carrier licensed in this
24 State shall make every effort to limit the pricing of
25 products it sells in this State to the level that supports
26 no more than 3% underwriting gain less federal taxes for
27 the carrier's fiscal year beginning on or after July 1,
28 2006 and for every fiscal year thereafter.

29 (4) By July 1, 2006, the Illinois Hospital Association
30 and the Authority shall agree on a timetable, format, and
31 methodology for the Illinois Hospital Association to
32 report on hospital charges, cost efficiency, and

1 consolidated operating margins. In accordance with the
2 agreement, the Illinois Hospital Association shall submit
3 an annual report to the Authority beginning January 1,
4 2007.

5 ARTICLE 95. AMENDATORY PROVISIONS

6 Section 95-5. The Illinois Health Facilities Planning Act
7 is amended by changing Sections 3 and 12 as follows:

8 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

9 (Section scheduled to be repealed on July 1, 2006)

10 Sec. 3. Definitions. As used in this Act:

11 "Health care facilities" means and includes the following
12 facilities and organizations:

13 1. An ambulatory surgical treatment center required to
14 be licensed pursuant to the Ambulatory Surgical Treatment
15 Center Act;

16 2. An institution, place, building, or agency required
17 to be licensed pursuant to the Hospital Licensing Act;

18 3. Skilled and intermediate long term care facilities
19 licensed under the Nursing Home Care Act;

20 3. Skilled and intermediate long term care facilities
21 licensed under the Nursing Home Care Act;

22 4. Hospitals, nursing homes, ambulatory surgical
23 treatment centers, or kidney disease treatment centers
24 maintained by the State or any department or agency
25 thereof;

26 5. Kidney disease treatment centers, including a
27 free-standing hemodialysis unit required to be licensed
28 under the End Stage Renal Disease Facility Act; and

29 6. An institution, place, building, or room used for
30 the performance of outpatient surgical procedures that is
31 leased, owned, or operated by or on behalf of an

1 out-of-state facility.

2 7. Limited service providers.

3 No federally owned facility shall be subject to the
4 provisions of this Act, nor facilities used solely for healing
5 by prayer or spiritual means.

6 No facility licensed under the Supportive Residences
7 Licensing Act or the Assisted Living and Shared Housing Act
8 shall be subject to the provisions of this Act.

9 A facility designated as a supportive living facility that
10 is in good standing with the demonstration project established
11 under Section 5-5.01a of the Illinois Public Aid Code shall not
12 be subject to the provisions of this Act.

13 This Act does not apply to facilities granted waivers under
14 Section 3-102.2 of the Nursing Home Care Act. However, if a
15 demonstration project under that Act applies for a certificate
16 of need to convert to a nursing facility, it shall meet the
17 licensure and certificate of need requirements in effect as of
18 the date of application.

19 This Act does not apply to a dialysis facility that
20 provides only dialysis training, support, and related services
21 to individuals with end stage renal disease who have elected to
22 receive home dialysis. This Act does not apply to a dialysis
23 unit located in a licensed nursing home that offers or provides
24 dialysis-related services to residents with end stage renal
25 disease who have elected to receive home dialysis within the
26 nursing home. The Board, however, may require these dialysis
27 facilities and licensed nursing homes to report statistical
28 information on a quarterly basis to the Board to be used by the
29 Board to conduct analyses on the need for proposed kidney
30 disease treatment centers.

31 This Act shall not apply to the closure of an entity or a
32 portion of an entity licensed under the Nursing Home Care Act
33 that elects to convert, in whole or in part, to an assisted
34 living or shared housing establishment licensed under the

1 Assisted Living and Shared Housing Act.

2 With the exception of those health care facilities
3 specifically included in this Section, nothing in this Act
4 shall be intended to include facilities operated as a part of
5 the practice of a physician or other licensed health care
6 professional, whether practicing in his individual capacity or
7 within the legal structure of any partnership, medical or
8 professional corporation, or unincorporated medical or
9 professional group. Further, this Act shall not apply to
10 physicians or other licensed health care professional's
11 practices where such practices are carried out in a portion of
12 a health care facility under contract with such health care
13 facility by a physician or by other licensed health care
14 professionals, whether practicing in his individual capacity
15 or within the legal structure of any partnership, medical or
16 professional corporation, or unincorporated medical or
17 professional groups. This Act shall apply to construction or
18 modification and to establishment by such health care facility
19 of such contracted portion which is subject to facility
20 licensing requirements, irrespective of the party responsible
21 for such action or attendant financial obligation.

22 "Person" means any one or more natural persons, legal
23 entities, governmental bodies other than federal, or any
24 combination thereof.

25 "Consumer" means any person other than a person (a) whose
26 major occupation currently involves or whose official capacity
27 within the last 12 months has involved the providing,
28 administering or financing of any type of health care facility,
29 (b) who is engaged in health research or the teaching of
30 health, (c) who has a material financial interest in any
31 activity which involves the providing, administering or
32 financing of any type of health care facility, or (d) who is or
33 ever has been a member of the immediate family of the person
34 defined by (a), (b), or (c).

1 "State Board" means the Health Facilities Planning Board.

2 "Construction or modification" means the establishment,
3 erection, building, alteration, reconstruction, modernization,
4 improvement, extension, discontinuation, change of ownership,
5 of or by a health care facility, or the purchase or acquisition
6 by or through a health care facility of equipment or service
7 for diagnostic or therapeutic purposes or for facility
8 administration or operation, or any capital expenditure made by
9 or on behalf of a health care facility which exceeds the
10 capital expenditure minimum; however, any capital expenditure
11 made by or on behalf of a health care facility for (i) the
12 construction or modification of a facility licensed under the
13 Assisted Living and Shared Housing Act or (ii) a conversion
14 project undertaken in accordance with Section 30 of the Older
15 Adult Services Act shall be excluded from any obligations under
16 this Act.

17 "Establish" means the construction of a health care
18 facility or the replacement of an existing facility on another
19 site.

20 "Major medical equipment" means medical equipment which is
21 used for the provision of medical and other health services and
22 which costs in excess of the capital expenditure minimum,
23 except that such term does not include medical equipment
24 acquired by or on behalf of a clinical laboratory to provide
25 clinical laboratory services if the clinical laboratory is
26 independent of a physician's office and a hospital and it has
27 been determined under Title XVIII of the Social Security Act to
28 meet the requirements of paragraphs (10) and (11) of Section
29 1861(s) of such Act. In determining whether medical equipment
30 has a value in excess of the capital expenditure minimum, the
31 value of studies, surveys, designs, plans, working drawings,
32 specifications, and other activities essential to the
33 acquisition of such equipment shall be included.

34 "Capital Expenditure" means an expenditure: (A) made by or

1 on behalf of a health care facility (as such a facility is
2 defined in this Act); and (B) which under generally accepted
3 accounting principles is not properly chargeable as an expense
4 of operation and maintenance, or is made to obtain by lease or
5 comparable arrangement any facility or part thereof or any
6 equipment for a facility or part; and which exceeds the capital
7 expenditure minimum.

8 For the purpose of this paragraph, the cost of any studies,
9 surveys, designs, plans, working drawings, specifications, and
10 other activities essential to the acquisition, improvement,
11 expansion, or replacement of any plant or equipment with
12 respect to which an expenditure is made shall be included in
13 determining if such expenditure exceeds the capital
14 expenditures minimum. Donations of equipment or facilities to a
15 health care facility which if acquired directly by such
16 facility would be subject to review under this Act shall be
17 considered capital expenditures, and a transfer of equipment or
18 facilities for less than fair market value shall be considered
19 a capital expenditure for purposes of this Act if a transfer of
20 the equipment or facilities at fair market value would be
21 subject to review.

22 "Capital expenditure minimum" means \$6,000,000, which
23 shall be annually adjusted to reflect the increase in
24 construction costs due to inflation, for major medical
25 equipment and for all other capital expenditures; provided,
26 however, that when a capital expenditure is for the
27 construction or modification of a health and fitness center,
28 "capital expenditure minimum" means the capital expenditure
29 minimum for all other capital expenditures in effect on March
30 1, 2000, which shall be annually adjusted to reflect the
31 increase in construction costs due to inflation.

32 "Non-clinical service area" means an area (i) for the
33 benefit of the patients, visitors, staff, or employees of a
34 health care facility and (ii) not directly related to the

1 diagnosis, treatment, or rehabilitation of persons receiving
2 services from the health care facility. "Non-clinical service
3 areas" include, but are not limited to, chapels; gift shops;
4 news stands; computer systems; tunnels, walkways, and
5 elevators; telephone systems; projects to comply with life
6 safety codes; educational facilities; student housing;
7 patient, employee, staff, and visitor dining areas;
8 administration and volunteer offices; modernization of
9 structural components (such as roof replacement and masonry
10 work); boiler repair or replacement; vehicle maintenance and
11 storage facilities; parking facilities; mechanical systems for
12 heating, ventilation, and air conditioning; loading docks; and
13 repair or replacement of carpeting, tile, wall coverings,
14 window coverings or treatments, or furniture. Solely for the
15 purpose of this definition, "non-clinical service area" does
16 not include health and fitness centers.

17 "Areawide" means a major area of the State delineated on a
18 geographic, demographic, and functional basis for health
19 planning and for health service and having within it one or
20 more local areas for health planning and health service. The
21 term "region", as contrasted with the term "subregion", and the
22 word "area" may be used synonymously with the term "areawide".

23 "Local" means a subarea of a delineated major area that on
24 a geographic, demographic, and functional basis may be
25 considered to be part of such major area. The term "subregion"
26 may be used synonymously with the term "local".

27 "Areawide health planning organization" or "Comprehensive
28 health planning organization" means the health systems agency
29 designated by the Secretary, Department of Health and Human
30 Services or any successor agency.

31 "Local health planning organization" means those local
32 health planning organizations that are designated as such by
33 the areawide health planning organization of the appropriate
34 area.

1 "Physician" means a person licensed to practice in
2 accordance with the Medical Practice Act of 1987, as amended.

3 "Licensed health care professional" means a person
4 licensed to practice a health profession under pertinent
5 licensing statutes of the State of Illinois.

6 "Director" means the Director of the Illinois Department of
7 Public Health.

8 "Agency" means the Illinois Department of Public Health.

9 "Comprehensive health planning" means health planning
10 concerned with the total population and all health and
11 associated problems that affect the well-being of people and
12 that encompasses health services, health manpower, and health
13 facilities; and the coordination among these and with those
14 social, economic, and environmental factors that affect
15 health.

16 "Alternative health care model" means a facility or program
17 authorized under the Alternative Health Care Delivery Act.

18 "Out-of-state facility" means a person that is both (i)
19 licensed as a hospital or as an ambulatory surgery center under
20 the laws of another state or that qualifies as a hospital or an
21 ambulatory surgery center under regulations adopted pursuant
22 to the Social Security Act and (ii) not licensed under the
23 Ambulatory Surgical Treatment Center Act, the Hospital
24 Licensing Act, or the Nursing Home Care Act. Affiliates of
25 out-of-state facilities shall be considered out-of-state
26 facilities. Affiliates of Illinois licensed health care
27 facilities 100% owned by an Illinois licensed health care
28 facility, its parent, or Illinois physicians licensed to
29 practice medicine in all its branches shall not be considered
30 out-of-state facilities. Nothing in this definition shall be
31 construed to include an office or any part of an office of a
32 physician licensed to practice medicine in all its branches in
33 Illinois that is not required to be licensed under the
34 Ambulatory Surgical Treatment Center Act.

1 "Change of ownership of a health care facility" means a
2 change in the person who has ownership or control of a health
3 care facility's physical plant and capital assets. A change in
4 ownership is indicated by the following transactions: sale,
5 transfer, acquisition, lease, change of sponsorship, or other
6 means of transferring control.

7 "Related person" means any person that: (i) is at least 50%
8 owned, directly or indirectly, by either the health care
9 facility or a person owning, directly or indirectly, at least
10 50% of the health care facility; or (ii) owns, directly or
11 indirectly, at least 50% of the health care facility.

12 "Charity care" means care provided by a health care
13 facility for which the provider does not expect to receive
14 payment from the patient or a third-party payer.

15 "Limited service provider" means a health care facility, as
16 defined in this Act, that focuses on a specific condition or
17 procedure, including, but not limited to, specialty hospitals,
18 pain centers, and imaging centers.

19 "Health Resource Plan" means the biennial Health Resource
20 Plan developed under Article 20 of the Healthy Illinois Act.

21 (Source: P.A. 93-41, eff. 6-27-03; 93-766, eff. 7-20-04;
22 93-935, eff. 1-1-05; 93-1031, eff. 8-27-04; revised 10-25-04.)

23 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

24 (Section scheduled to be repealed on July 1, 2006)

25 Sec. 12. Powers and duties of State Board. For purposes of
26 this Act, the State Board shall exercise the following powers
27 and duties:

28 (1) Prescribe rules, regulations, standards, criteria,
29 procedures or reviews which may vary according to the purpose
30 for which a particular review is being conducted or the type of
31 project reviewed and which are required to carry out the
32 provisions and purposes of this Act.

33 (2) Adopt procedures for public notice and hearing on all

1 proposed rules, regulations, standards, criteria, and plans
2 required to carry out the provisions of this Act.

3 (3) Prescribe criteria for recognition for areawide health
4 planning organizations, including, but not limited to,
5 standards for evaluating the scientific bases for judgments on
6 need and procedure for making these determinations.

7 (4) Develop criteria and standards for health care
8 facilities planning, conduct statewide inventories of health
9 care facilities, maintain an updated inventory on the
10 Department's web site reflecting the most recent bed and
11 service changes and updated need determinations when new census
12 data become available or new need formulae are adopted, and
13 develop health care facility plans which shall be utilized in
14 the review of applications for permit under this Act. Such
15 health facility plans shall be coordinated by the Agency with
16 the health care facility plans areawide health planning
17 organizations and with other pertinent State Plans.

18 In developing health care facility plans, the State Board
19 shall consider, but shall not be limited to, the following:

20 (a) The size, composition and growth of the population
21 of the area to be served;

22 (b) The number of existing and planned facilities
23 offering similar programs;

24 (c) The extent of utilization of existing facilities;

25 (d) The availability of facilities which may serve as
26 alternatives or substitutes;

27 (e) The availability of personnel necessary to the
28 operation of the facility;

29 (f) Multi-institutional planning and the establishment
30 of multi-institutional systems where feasible;

31 (g) The financial and economic feasibility of proposed
32 construction or modification; ~~and~~

33 (h) In the case of health care facilities established
34 by a religious body or denomination, the needs of the

1 members of such religious body or denomination may be
2 considered to be public need; ~~and-~~

3 (i) The Health Resource Plan adopted by the Healthy
4 Illinois Authority.

5 The health care facility plans which are developed and
6 adopted in accordance with this Section shall form the basis
7 for the plan of the State to deal most effectively with
8 statewide health needs in regard to health care facilities.

9 (5) Coordinate with other state agencies having
10 responsibilities affecting health care facilities, including
11 those of licensure and cost reporting.

12 (6) Solicit, accept, hold and administer on behalf of the
13 State any grants or bequests of money, securities or property
14 for use by the State Board or recognized areawide health
15 planning organizations in the administration of this Act; and
16 enter into contracts consistent with the appropriations for
17 purposes enumerated in this Act.

18 (7) The State Board shall prescribe, in consultation with
19 the recognized areawide health planning organizations,
20 procedures for review, standards, and criteria which shall be
21 utilized to make periodic areawide reviews and determinations
22 of the appropriateness of any existing health services being
23 rendered by health care facilities subject to the Act. The
24 State Board shall consider recommendations of the areawide
25 health planning organization and the Agency in making its
26 determinations.

27 (8) Prescribe, in consultation with the recognized
28 areawide health planning organizations, rules, regulations,
29 standards, and criteria for the conduct of an expeditious
30 review of applications for permits for projects of construction
31 or modification of a health care facility, which projects are
32 non-substantive in nature. Such rules shall not abridge the
33 right of areawide health planning organizations to make
34 recommendations on the classification and approval of

1 projects, nor shall such rules prevent the conduct of a public
2 hearing upon the timely request of an interested party. Such
3 reviews shall not exceed 60 days from the date the application
4 is declared to be complete by the Agency.

5 (9) Prescribe rules, regulations, standards, and criteria
6 pertaining to the granting of permits for construction and
7 modifications which are emergent in nature and must be
8 undertaken immediately to prevent or correct structural
9 deficiencies or hazardous conditions that may harm or injure
10 persons using the facility, as defined in the rules and
11 regulations of the State Board. This procedure is exempt from
12 public hearing requirements of this Act.

13 (10) Prescribe rules, regulations, standards and criteria
14 for the conduct of an expeditious review, not exceeding 60
15 days, of applications for permits for projects to construct or
16 modify health care facilities which are needed for the care and
17 treatment of persons who have acquired immunodeficiency
18 syndrome (AIDS) or related conditions.

19 (Source: P.A. 93-41, eff. 6-27-03.)

20 Section 95-10. The State Finance Act is amended by adding
21 Section 5.641 as follows:

22 (30 ILCS 105/5.641 new)

23 Sec. 5.641. The Healthy Illinois Authority Fund.

24 Section 95-15. The Illinois Insurance Code is amended by
25 adding Article XLV as follows:

26 (215 ILCS 5/Art. XLV heading new)

27 ARTICLE XLV. HEALTH INSURANCE RATES

28 (215 ILCS 5/1502 new)

29 Sec. 1502. Purpose. The purpose of this Article is to

1 promote the public welfare by regulating health insurance rates
2 to the end that they shall not be excessive, inadequate or
3 unfairly discriminatory, or erroneously applied and to
4 authorize and regulate cooperative action among companies in
5 rate making and in other matters within the scope of this
6 Article. It is the express intent of the General Assembly
7 pursuant to this Article to permit and encourage competition
8 between companies on a sound financial basis and to establish a
9 mechanism to ensure the provision of adequate insurance at
10 reasonable rates to the citizens of this State. This Article
11 shall be liberally interpreted to effectuate its purpose.

12 (215 ILCS 5/1503 new)

13 Sec. 1503. Scope of Article. This Article applies to
14 health insurance. As used in this Article, "health insurance"
15 means the kinds of insurance described in clause (b) of Class 1
16 and clause (a) of Class 2 of Section 4 of this Code.

17 (215 ILCS 5/1505 new)

18 Sec. 1505. Definitions. As used in this Article:
19 "Director" means the Director of the Division of Insurance
20 of the Department of Financial and Professional Regulation.
21 "Division" means the Division of Insurance of the
22 Department of Financial and Professional Regulation.

23 (215 ILCS 5/1510 new)

24 Sec. 1510. Making of Rates.
25 (a) Rate increases shall not be excessive, inadequate, or
26 unfairly discriminatory, and shall not be more than 6% without
27 adequate justification. A rate in a competitive market is
28 presumed to be not excessive if it has not been increased by
29 more than 6% without adequate justification. A rate in a
30 noncompetitive market is excessive if it is likely to produce a
31 long run profit that is unreasonably high for the insurance

1 provided or if expenses are unreasonably high in relation to
2 the services rendered. Unfair discrimination exists if, after
3 allowing for practical limitations, price differentials fail
4 to reflect equitably the differences in expected losses and
5 expenses.

6 (b) In making the determination of whether there is
7 adequate justification for a rate increase of more than 6%, the
8 Director shall, in accordance with generally accepted and
9 reasonable actuarial techniques, consider the following
10 factors:

11 (1) Past loss experience within and outside this State.

12 (2) Past expenses both allocated and unallocated.

13 (3) The degree of competition among insurers for the
14 risk insured.

15 (4) Investment income reasonably expected by the
16 insurer, consistent with the insurer's investment
17 practices, from investable premiums anticipated in the
18 filing, plus any other expected income from currently
19 invested assets representing the amount expected on
20 unearned premium reserves and loss reserves. The Division
21 may adopt rules utilizing reasonable techniques of
22 actuarial science and economics to specify the manner in
23 which insurers shall calculate investment income
24 attributable to classes of insurance written in this State
25 and the manner in which the investment income shall be used
26 in the calculation of insurance rates.

27 (5) The reasonableness of the judgment reflected in the
28 filing.

29 (6) Dividends, savings, or unabsorbed premium deposits
30 allowed or returned to Illinois policyholders, members, or
31 subscribers.

32 (7) The adequacy of loss reserves.

33 (8) The cost of reinsurance.

34 (9) Trend factors, including trends to actual losses

1 per insured unit for the insurer making the filing.

2 (10) A reasonable margin for profit and contingencies.

3 (11) Other relevant factors that impact upon the
4 frequency or severity of claims or upon expenses.

5 Section 95-20. The Illinois Antitrust Act is amended by
6 changing Section 5 as follows:

7 (740 ILCS 10/5) (from Ch. 38, par. 60-5)

8 Sec. 5. No provisions of this Act shall be construed to
9 make illegal:

10 (1) the activities of any labor organization or of
11 individual members thereof which are directed solely to labor
12 objectives which are legitimate under the laws of either the
13 State of Illinois or the United States;

14 (2) the activities of any agricultural or horticultural
15 cooperative organization, whether incorporated or
16 unincorporated, or of individual members thereof, which are
17 directed solely to objectives of such cooperative
18 organizations which are legitimate under the laws of either the
19 State of Illinois or the United States;

20 (3) the activities of any public utility, as defined in
21 Section 3-105 of the Public Utilities Act to the extent that
22 such activities are subject to a clearly articulated and
23 affirmatively expressed State policy to replace competition
24 with regulation, where the conduct to be exempted is actively
25 supervised by the State itself;

26 (4) The activities of a telecommunications carrier, as
27 defined in Section 13-202 of the Public Utilities Act, to the
28 extent those activities relate to the provision of
29 noncompetitive telecommunications services under the Public
30 Utilities Act and are subject to the jurisdiction of the
31 Illinois Commerce Commission or to the activities of telephone
32 mutual concerns referred to in Section 13-202 of the Public

1 Utilities Act to the extent those activities relate to the
2 provision and maintenance of telephone service to owners and
3 customers;

4 (5) the activities (including, but not limited to, the
5 making of or participating in joint underwriting or joint
6 reinsurance arrangement) of any insurer, insurance agent,
7 insurance broker, independent insurance adjuster or rating
8 organization to the extent that such activities are subject to
9 regulation by the Director of Insurance of this State under, or
10 are permitted or are authorized by, the Insurance Code or any
11 other law of this State, except, however, that this Act shall
12 apply to the activities of any entity that provides health
13 insurance in this State, including a licensed insurance
14 company, a prepaid hospital or medical service plan, a health
15 maintenance organization, or any other entity providing a plan
16 of health insurance or health benefits subject to State
17 insurance regulation insofar as those activities relate to that
18 health insurance;

19 (6) the religious and charitable activities of any
20 not-for-profit corporation, trust or organization established
21 exclusively for religious or charitable purposes, or for both
22 purposes;

23 (7) the activities of any not-for-profit corporation
24 organized to provide telephone service on a mutual or
25 co-operative basis or electrification on a co-operative basis,
26 to the extent such activities relate to the marketing and
27 distribution of telephone or electrical service to owners and
28 customers;

29 (8) the activities engaged in by securities dealers who are
30 (i) licensed by the State of Illinois or (ii) members of the
31 National Association of Securities Dealers or (iii) members of
32 any National Securities Exchange registered with the
33 Securities and Exchange Commission under the Securities
34 Exchange Act of 1934, as amended, in the course of their

1 business of offering, selling, buying and selling, or otherwise
2 trading in or underwriting securities, as agent, broker, or
3 principal, and activities of any National Securities Exchange
4 so registered, including the establishment of commission rates
5 and schedules of charges;

6 (9) the activities of any board of trade designated as a
7 "contract market" by the Secretary of Agriculture of the United
8 States pursuant to Section 5 of the Commodity Exchange Act, as
9 amended;

10 (10) the activities of any motor carrier, rail carrier, or
11 common carrier by pipeline, as defined in the Common Carrier by
12 Pipeline Law of the Public Utilities Act, to the extent that
13 such activities are permitted or authorized by the Act or are
14 subject to regulation by the Illinois Commerce Commission;

15 (11) the activities of any state or national bank to the
16 extent that such activities are regulated or supervised by
17 officers of the state or federal government under the banking
18 laws of this State or the United States;

19 (12) the activities of any state or federal savings and
20 loan association to the extent that such activities are
21 regulated or supervised by officers of the state or federal
22 government under the savings and loan laws of this State or the
23 United States;

24 (13) the activities of any bona fide not-for-profit
25 association, society or board, of attorneys, practitioners of
26 medicine, architects, engineers, land surveyors or real estate
27 brokers licensed and regulated by an agency of the State of
28 Illinois, in recommending schedules of suggested fees, rates or
29 commissions for use solely as guidelines in determining charges
30 for professional and technical services;

31 (14) Conduct involving trade or commerce (other than import
32 trade or import commerce) with foreign nations unless:

33 (a) such conduct has a direct, substantial, and
34 reasonably foreseeable effect:

1 (i) on trade or commerce which is not trade or
2 commerce with foreign nations, or on import trade or
3 import commerce with foreign nations; or

4 (ii) on export trade or export commerce with
5 foreign nations of a person engaged in such trade or
6 commerce in the United States; and

7 (b) such effect gives rise to a claim under the
8 provisions of this Act, other than this subsection (14).

9 (c) If this Act applies to conduct referred to in this
10 subsection (14) only because of the provisions of paragraph
11 (a)(ii), then this Act shall apply to such conduct only for
12 injury to export business in the United States which
13 affects this State; or

14 (15) the activities of a unit of local government or school
15 district and the activities of the employees, agents and
16 officers of a unit of local government or school district.

17 (Source: P.A. 90-185, eff. 7-23-97; 90-561, eff. 12-16-97.)

18 ARTICLE 99. EFFECTIVE DATE

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