

SB0014



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB0014

Introduced 1/26/2005, by Sen. Emil Jones, Jr. - Don Harmon

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 5/3-1 from Ch. 15, par. 303-1
30 ILCS 105/5.640 new

Creates the Illinois Opportunity Fund Act. Contains provisions intended to increase the availability and facilitate the delivery of institutional venture capital and private equity investment to emerging and expanding enterprises in the State of Illinois. Defines the role of the Department of Commerce and Economic Opportunity. Creates the Illinois Opportunity Fund and provides for the creation of the Illinois Capital Investment Corporation. Amends the State Finance Act to create the Illinois Opportunity Special Projects Fund. Amends the Illinois State Auditing Act to authorize audits of the Corporation and the Fund. Contains other provisions. Effective immediately.

LRB094 07034 AJ0 37176 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning state government.

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

4 Section 1. Short title. This Act may be cited as the
5 Illinois Opportunity Fund Act.

6 Section 5. Findings and purposes.

7 (a) The State of Illinois finds that the traditional means
8 by which venture capital and private equity investors direct
9 capital to Illinois markets does not adequately serve the
10 State's needs. The lack of sufficient capital impairs the
11 ability of the State to create jobs, new markets for goods and
12 services, and sustainable economic growth throughout Illinois.
13 The State of Illinois finds that venture capital and private
14 equity investments traditionally have been an efficient means
15 to create jobs, expand new markets for products and services,
16 and generally encourage economic growth. The State of Illinois
17 desires to strengthen the overall economy of the State by
18 increasing the availability and delivery of venture capital and
19 private equity investments for emerging, expanding, and
20 distressed enterprises in Illinois, and to do so in a way that
21 provides for financial returns to private investors.

22 (b) Furthermore, the State of Illinois finds that certain
23 geographic areas and populations within the State have been
24 subject to economic disparities and have lacked access to the
25 private capital needed to create jobs and economic
26 opportunities.

27 (c) Venture capital and private equity investment should be
28 directed to geographic areas and populations within the State
29 that have been subject to economic disparities, have lacked
30 access to the private capital needed to create jobs and
31 economic opportunities, and to sectors considered to be
32 strategic industries for the State of Illinois.

1 (d) This Act has the mission of mobilizing private capital
2 investment in a broad variety of venture capital and private
3 equity investment funds in diversified industries and
4 geographic regions of the State of Illinois. To achieve this
5 mission, the General Assembly believes that it is necessary to
6 retain the private sector culture of focusing on rate of return
7 in the investing process. Therefore, this Act is intended to
8 facilitate the establishment of the Illinois Opportunity Fund,
9 seek private investment, and create interest in these
10 investments by offering State credit enhancements that limit
11 risk to private investors. This Act also has the mission of
12 facilitating and enhancing the flow of venture capital and
13 private equity into the State of Illinois and improving the
14 infrastructure through which capital is delivered throughout
15 the State including to those geographic areas and populations
16 within the State that have been subject to economic
17 disparities, so as to create jobs in Illinois, expand new
18 markets for Illinois products and Illinois services, and to
19 generally grow the Illinois economy. It is the goal and intent
20 of this legislation to accomplish these missions in such a
21 manner as to minimize any appropriations by the State of
22 Illinois to effectuate these purposes.

23 Section 10. Definitions. In this Act, unless the context
24 requires otherwise:

25 "DCEO" means Department of Commerce and Economic
26 Opportunity, or its successor agency.

27 "Corporation" means the Illinois Capital Investment
28 Corporation created by this Act.

29 "Certificate" means an assignable contract between DCEO
30 and an investor in the Illinois Opportunity Fund under which
31 the terms of the tax credits being issued for the benefit of
32 the investor, or any assignee of the investor, as established
33 by DCEO, are set forth.

34 "Person" means an individual, a corporation, a
35 partnership, or any other lawfully organized entity, whether

1 domiciled in Illinois or outside of Illinois.

2 "Illinois Capital Investment Corporation" means the
3 private not-for-profit corporation established pursuant to
4 this Act.

5 "Illinois Opportunity Fund" means the private for-profit
6 fund established by the Illinois Capital Investment
7 Corporation pursuant to this Act.

8 "Tax credits" means credits against taxes imposed pursuant
9 to Section 201 of the Illinois Income Tax Act for any taxable
10 year ending after December 31, 2009, and having such terms as
11 are established by DCEO in accordance with Section 25 of this
12 Act, including any contingencies on redemption.

13 "SBIC" means small business investment company within the
14 meaning of the federal Small Business Investment Act of 1958.

15 "CDFI" and "CDVC". CDFI means a "community development
16 financial institution" as defined in the Illinois Investment
17 and Development Authority Act, and CDVC means community
18 development venture capital, a type of CDFI specific to
19 investing equity interests in Illinois firms with the dual goal
20 of financial returns and economic and social benefit.

21 "Venture capital and private equity investment" includes
22 private institutional, angel, incubator, mezzanine,
23 seed/start-up stage, early stage, expansions stage, later
24 stage, community development venture capital investments and
25 management buyouts, recapitalization of existing companies,
26 and other structured growth private equity transactions.

27 "Venture Capital and Private Equity Professional" means an
28 individual with substantial professional experience, as a
29 principal and not as an intermediary, managing venture capital
30 and private equity funds, who has demonstrated a track record
31 of successful performance that includes realized or exited
32 investments. For purposes of this definition "principal" means
33 an individual with an ownership interest in the venture capital
34 and private equity fund which that individual manages or
35 operates.

1 Section 15. Illinois Capital Investment Corporation.

2 (a) DCEO shall create the Illinois Capital Investment
3 Corporation as a private not-for-profit corporation under the
4 General Not For Profit Corporation Act of 1986 and not as a
5 public corporation or instrumentality of the State. The
6 corporation shall not enjoy any of the privileges nor be
7 required to comply with any of the requirements of a State
8 agency except as provided in this Act. Except as provided in
9 this Act, nothing in this Act exempts the Corporation from the
10 same requirements under State law that apply to other
11 Corporations organized under the General Not For Profit
12 Corporation Act of 1986. The Director or Acting Director of
13 DCEO or his or her designee shall be the incorporator of the
14 Corporation.

15 (b) The Corporation shall establish investment objectives
16 and criteria for venture capital and private equity investment
17 undertaken through the Illinois Opportunity Fund. In
18 establishing these investment objectives and criteria, the
19 Corporation shall consider whether the venture capital and
20 private equity investment is reasonably anticipated (i) to be
21 consistent with a private sector focus on rate of return in the
22 investment process; (ii) to provide financial returns
23 sufficient to meet any obligations to private investors
24 undertaken by the Corporation in accordance with this Act;
25 (iii) to attract investment from private markets in investments
26 within the State of Illinois; and (iv) to result in the
27 strengthening of the State's economy. In establishing these
28 investment objectives and criteria, the Corporation shall
29 consult with leaders in the private sector venture capital and
30 private equity community, business, science, and government to
31 identify strategic industries and sectors that offer the
32 potential to create high quality and sustainable employment
33 opportunities for Illinois residents and create domestic and
34 global markets for the products and services of the investee
35 companies. In addition, in establishing these objectives and
36 criteria, the Corporation shall consider whether venture

1 capital and private equity investment will occur through the
2 Illinois Opportunity Fund in diverse geographies and among
3 populations that have been subject to economic disparities and
4 have lacked access to private capital within Illinois.

5 (c) DCEO shall assist the corporation in performing its
6 duties, and undertake such other responsibilities as are set
7 forth in this Act or as may be necessary or appropriate to give
8 effect to the intent and purposes of this Act.

9 (d) The Corporation shall cooperate and coordinate with
10 DCEO to fulfill the economic development policy of the State as
11 established by the Governor and the General Assembly and
12 implemented by DCEO.

13 (e) The Corporation shall have responsibility for
14 organizing and overseeing the management of the Illinois
15 Opportunity Fund and identifying and engaging a private fund
16 manager or managers for the Illinois Opportunity Fund. The board
17 of directors of the Corporation shall make investment decisions
18 after considering the recommendations of the fund manager or
19 managers. The Corporation shall receive investment returns
20 from the Illinois Opportunity Fund and shall reinvest those
21 funds in venture capital and private equity investments subject
22 to the provisions of this Act.

23 (f) The Corporation shall exercise no governmental
24 functions. Without limiting the authority of DCEO to issue tax
25 credits pursuant to this Act under certificates that are
26 binding on DCEO and the Illinois Department of Revenue, the
27 obligations of the Corporation are not obligations of the State
28 or any political subdivision of the State within the meaning of
29 any Constitutional or statutory debt limitations, but are
30 obligations of the Corporation payable solely and only from the
31 corporation's funds. The Corporation shall itself have no
32 authority to pledge the credit or taxing power of the State or
33 make its debts payable out of any moneys except those of the
34 Corporation.

35 (g) The Corporation shall consist of a board of directors
36 of 7 members, who shall be appointed by the Governor with the

1 advice and consent of the Senate. Upon appointment of the board
2 of directors and every 2 years thereafter, the chairperson of
3 the Corporation shall be selected by the Governor to serve as
4 chairperson for 2 years. The Director or Acting Director of
5 DCEO or his or her designee shall be one of the 7 members of the
6 board of directors of the Corporation. A quorum of the board of
7 directors must exist in order for the board to transact
8 business. A quorum of the board of directors shall consist of a
9 majority of directors then in office but in no event less than
10 3 directors. The appointment of the board of directors of the
11 Corporation shall reflect the geographic and social diversity
12 of the State. At least 3 members of the board of directors
13 shall be Venture Capital and Private Equity Professionals. In
14 making appointments to the Corporation's board of directors, it
15 shall be considered whether (i) each candidate has meaningful
16 experience reviewing, preparing, analyzing, or interpreting
17 financial statements or has sophistication in financial
18 matters generally, (ii) has meaningful experience in the
19 supervision or management of venture capital or private equity
20 investments, (iii) has meaningful experience operating or
21 managing investments in businesses engaged in the industries or
22 sectors targeted as candidates for investment by the
23 Corporation, or (iv) has meaningful experience managing or
24 selecting investments for institutional, seed, angel,
25 mezzanine, or community development venture capital and
26 private equity investment funds or SBIC's. At the time of
27 appointment, the Governor shall designate 3 directors to serve
28 until the third Monday of July 2006, one of whom shall be a
29 Venture Capital and Private Equity Professional, and 3
30 directors to serve until the third Monday in July, 2007, 2 of
31 whom shall be a Venture Capital and Private Equity
32 Professional. Thereafter, appointments shall be made for
33 3-year terms. A director shall serve until his or her successor
34 shall be appointed and have qualified for office. The Governor
35 may remove any director of the Corporation for cause.

36 (h) A conflict of interest shall be deemed to exist if the

1 Corporation considers entering into a contract with or directly
2 or indirectly sells goods or services to a director, officer,
3 employee of the Board, or the fund manager of the Illinois
4 Opportunity Fund, or any for-profit firm or corporation in
5 which that director, officer, employee, the fund manager of the
6 Illinois Opportunity Fund or any member of his or her immediate
7 family is an officer, partner, or principal stockholder. Upon a
8 showing that a conflict of interest exists, the director,
9 officer, employee, or fund manager of the Illinois Opportunity
10 Fund shall abstain from any discussion or decision making with
11 respect to that contract or agreement, from voting on any
12 matter pertaining to that contract or agreement, and from
13 communicating with other Board members, officers, agents, or
14 employees concerning that contract or agreement. In no event
15 shall the board of directors make any investment in a fund in
16 which a member of the board of directors is a general partner
17 or a limited partner. The Corporation, its board of directors,
18 its officers, its employees, and the fund manager of the
19 Illinois Opportunity Fund are subject to the prohibitions
20 contained in Section 5-55 of the State Officials and Employees
21 Ethics Act.

22 (i) The board of directors of the Corporation shall
23 establish a committee for the selection and evaluation of
24 applicants for the position or positions or fund manager or
25 managers for the Illinois Opportunity Fund. The board of
26 directors of the Corporation shall also establish procedures
27 for the selection and evaluation of applicants for the position
28 or positions or fund manager for the Illinois Opportunity Fund.
29 The committee shall include not more than 3 members of the
30 board of directors of the Corporation, one of which shall be
31 the Director of DCEO or his or her designee. The chairman shall
32 appoint the remaining 2 members of the committee from the
33 members of the board of directors of the Corporation and at
34 least one of whom shall be a Venture Capital and Private Equity
35 Professional. The committee shall receive and review
36 applications for the position of fund manager of the Illinois

1 Opportunity Fund. Any applicant selected to be a fund manager
2 of the Illinois Fund shall demonstrate substantial experience
3 in the design, implementation, and management of
4 institutional, seed, angel, mezzanine, or community
5 development venture capital investment and private equity
6 programs or of SBIC's and in capital formation. In reviewing
7 applications, the committee shall consider each applicant's
8 (i) senior level decision making experience in institutional,
9 seed, angel, mezzanine, or community development venture
10 capital and private equity investments or SBIC's investing,
11 including whether the applicant has at least 5 years of such
12 experience, (ii) quality of management, (iii) investment
13 philosophy, (iv) plan for fundraising, (v) ties to Illinois
14 including whether it has a meaningful physical presence in
15 Illinois and knowledge and experience in working with the
16 Illinois venture capital and private equity investment
17 community, and (vi) prior investment fund results, including a
18 track record with a substantial number of realized or exited
19 investments, a time frame over which the track record was
20 achieved, the number of investments the track record is based
21 upon and the economic conditions existing during the time frame
22 of the track record, and shall include a preference that each
23 applicant's experience be financial (as with a formal
24 investment fund) rather than strategic (such as mergers and
25 acquisitions). Each applicant shall submit an investment plan
26 for review by the Corporation, which shall describe the
27 applicant's plan for seeking investment opportunities,
28 evaluating and structuring investments fulfilling the
29 investment objectives and criteria established by the
30 Corporation, and achieving the financial and policy goals of
31 this Act. Upon completion of this evaluation, the committee
32 shall rank the applicants based on their qualifications and
33 recommend a fund manager or managers for selection to the board
34 of directors of the Corporation. The board of directors of the
35 Corporation shall select an applicant or applicants based on
36 the recommendations of the committee, and shall notify the

1 applicant or applicants selected in writing.

2 (j) The Corporation may charge a fee to the Illinois
3 Opportunity Fund, which shall be in addition to any fee payable
4 by the Illinois Opportunity Fund to the fund manager or
5 managers engaged. The fee payable to the Corporation shall be
6 structured to cover the reasonable costs of the corporation in
7 fulfilling its oversight functions and of DCEO in fulfilling
8 its obligations under this Section and Section 25.

9 (k) The directors of the Corporation shall be compensated
10 from the Illinois Opportunity Fund for direct expenses and
11 mileage but shall not receive a director's fee or salary for
12 their service as directors.

13 (l) The Corporation shall indemnify and defend members of
14 the board of directors of the Corporation for any and all
15 claims against the members of the board of directors arising
16 from or related to the performance of their duties to the
17 Corporation.

18 (m) The Corporation shall have the power to engage
19 consultants, expend funds, invest funds, contract, bond or
20 insure against loss, engage counsel, and perform any other act
21 necessary to carry out its mission. Without limiting the
22 foregoing, the Corporation may (i) borrow such funds as may be
23 needed to accomplish its goals; (ii) open and manage bank and
24 short-term investment accounts deemed necessary by its fund
25 manager or managers; and (iii) expend funds to secure
26 investment ratings. The Corporation shall not borrow more than
27 the difference between the aggregate amount of contingent tax
28 credits allowed and the aggregate amount of contingent tax
29 credits issued pursuant to Section 25 of this Act. The
30 Corporation shall engage a certified public accountant to
31 conduct an annual audit of its financial condition and
32 operations, including the Illinois Opportunity Fund.

33 (n) The directors of the Corporation shall adopt bylaws,
34 policies, and procedures necessary to administer the affairs of
35 the corporation.

36 (o) Upon the dissolution of the Corporation, any assets

1 owned by it shall thereupon be distributed to the General
2 Revenue Fund of the State of Illinois.

3 (p) The meetings of the Board of directors, and any
4 committee thereof, are subject to the requirements of the Open
5 Meeting Act. The Board of Directors, and any committees
6 thereof, may hold a closed session to discuss and evaluate any
7 information submitted by applicants to be a fund manager of the
8 Illinois Opportunity Fund to the extent that information exempt
9 from disclosure under subsection 1(g) or 1(h) of Section 7 of
10 the Freedom of Information Act. The procedural requirements of
11 the Open Meetings Act shall apply to this closed session.

12 Section 16. Fund Managers of the Illinois Opportunity Fund.

13 (a) Once selected by the directors of the Corporation, the
14 fund manager or managers of the Illinois Opportunity Fund shall
15 research and select venture capital and private equity
16 investment funds to recommend to the Corporation's board of
17 directors.

18 (b) The fund manager or managers of the Illinois
19 Opportunity Fund shall be compensated from funds raised for and
20 investment returns from the Illinois Opportunity Fund at a
21 level to be established by the directors of the Corporation and
22 consistent with industry norms.

23 Section 20. Illinois Opportunity Fund.

24 (a) The Corporation shall organize the Illinois
25 Opportunity Fund as a for-profit limited partnership or limited
26 liability company under Illinois law pursuant to which the
27 Corporation shall be the general partner or managing member, as
28 the case may be.

29 (b) The Corporation is authorized to issue such interests
30 or obligations that shall provide for a fixed or variable rate
31 of return as established by the Corporation with the consent of
32 DCEO. Consistent with this Act, DCEO may award contingent tax
33 credits to investors in the Illinois Opportunity Fund that
34 shall be redeemable if the Illinois Opportunity Fund fails to

1 achieve results sufficient to repay the amounts invested by the
2 investors and provide them with specified returns. Returns on
3 investments generated by the Illinois Opportunity Fund in
4 excess of amounts required to (i) repay the amounts invested by
5 investors and provide them with specified returns, (ii) pay the
6 operating costs of the Corporation, including but not limited
7 to the agreed upon compensation of the fund manager or
8 managers, and (iii) pay all or an agreed upon portion of DCEO's
9 costs incurred in connection with the start-up of the
10 Corporation and the Opportunity Fund and such other costs
11 incurred by DCEO by providing assistance to the Corporation
12 consistent with this Act.

13 (c) The Illinois Opportunity Fund shall operate as a fund
14 of funds that invests principally in high-quality
15 institutional, seed, angel, mezzanine, and community
16 development venture capital funds and SBIC's that (i) maintain
17 a meaningful physical presence in the State of Illinois, (ii)
18 are managed by fund managers who commit that their funds will
19 invest not less than the amount invested with them by the
20 Illinois Opportunity Fund in businesses that are headquartered
21 or maintain meaningful business operations in the State of
22 Illinois, and (iii) meet the investment objectives and criteria
23 established by the Corporation consistent with this Act.

24 (d) No more than 5% of the fully funded (as articulated in
25 Section 25 of this Act) Illinois Opportunity Fund shall be
26 invested in any single investment vehicle. No more than 33 1/3%
27 of the fully funded (as articulated in Section 25 of this Act)
28 Illinois Opportunity Fund shall be invested in any one calendar
29 year. In no event shall the Illinois Opportunity Fund represent
30 or compromise more than 25% of any single investment vehicle or
31 fund.

32 (e) Beginning on September 1 of the next calendar year
33 following the effective date of this Act and continuing on
34 every subsequent September 1 thereafter, the Corporation shall
35 provide to the General Assembly an annual report on its
36 activities and on the performance of the Illinois Opportunity

1 Fund.

2 (f) Twenty-five years after the creation of the Illinois
3 Opportunity Fund by the Corporation, the assets of the Fund
4 shall be liquidated following the payment of any obligations of
5 the Corporation or the Illinois Opportunity Fund as authorized
6 by this Act, any remaining assets shall be deposited into the
7 General Revenue Fund of the State treasury.

8 Section 25. Contingent tax credits.

9 (a) There is authorized to be awarded an aggregate of
10 \$200,000,000 of contingent tax credits, reduced by the amount
11 of indebtedness to the Corporation, if any, which may be
12 allocated and issued by DCEO to investors in the Illinois
13 Opportunity Fund. DCEO shall not be obligated to issue
14 certificates equal to the full aggregate amount allowed by the
15 State of Illinois, and it may elect to suspend or terminate the
16 issuance of certificates at any time if it does not believe
17 that the continued issuance of certificates will assist the
18 State of Illinois in meeting the objectives of this Act. Tax
19 credits may be redeemed in any year but only as and to the
20 extent the Illinois Opportunity Fund is unable to return to its
21 investors the amounts initially invested plus the rate of
22 return specified in the interests of obligations authorized
23 pursuant to Section 20(b) of this Act. Tax credits shall be
24 redeemable not earlier than January 1, 2010 nor later than
25 December 31, 2033 as may be specified in any certificate.

26 (b) The aggregate redemptions of tax credits issued by
27 DCEO, however, shall not exceed \$40,000,000 in any fiscal year
28 of the State of Illinois.

29 (c) All tax credits shall be evidenced by certificates.
30 DCEO shall establish and set forth in each certificate all
31 terms and conditions, including the return of the investment
32 principal and any fixed or valuable rate or return, under which
33 tax credits may be redeemed. In establishing the terms of any
34 tax credits and issuing certificates, DCEO shall seek to
35 promote the purposes of this Act. Tax credits may not be

1 redeemed except in accordance with the terms of the certificate
2 under which they have been issued. The certificates shall, upon
3 proper issuance, be binding on DCEO and the Illinois Department
4 of Revenue. The State of Illinois irrevocably pledges and
5 covenants that, prior to the redemption of all certificates
6 awarded under this Act, it will not take action to limit or
7 restrict the ability of the holders of the certificate to
8 redeem the certificates in the form of tax credits.

9 (d) Each certificate shall be redeemable in the form of a
10 tax credit upon the date set forth in the certificate, which
11 date shall not be earlier than January 1, 2010 nor later than
12 December 31, 2033. The value of each certificate at redemption
13 shall be its compounded value, equal to its face amount at the
14 date of issuance plus an additional amount equal to the face
15 amount multiplied by the rate of return established pursuant to
16 Section 20(b) of this Act. This additional amount shall be
17 calculated on an annual basis and added annually to the value
18 of the certificate in determining the compounded value upon
19 redemption. To the extent that the compounded value of any
20 certificate upon redemption thereof exceeds the amount of
21 applicable taxes imposed pursuant to Section 201 of the
22 Illinois Income Tax Act, the amount of that excess may be taken
23 as a tax credit in the subsequent tax year or years; provided
24 that the compounded value of a certificate shall not be
25 increased after its redemption date. DCEO and the Department of
26 Revenue shall promulgate rules regarding tax credits, tax
27 credit certificates, and the redemption thereof, and setting
28 forth, among other matters, the procedures for the calculating
29 the compounded value of certificates and ability of a
30 certificate holder to redeem a portion of the compounded value
31 of any certificate in a year or years after the year of
32 redemption. The rate of return on each certificate shall under
33 no circumstances exceed the greater of 13 1/2% or 200% of the
34 rate for the most recent date shown in 20 G.O. Bonds Index of
35 Average Municipal Bond Yields as published in the most recent
36 edition of the bond buyer published in New York, New York, (or

1 any successor publication or index of long-term municipal bond
2 yields then selected by DCEO) at the time the certificate is
3 issued. Certificates may be redeemed only as and to the extent
4 that the Illinois Opportunity Fund is unable to return to its
5 investors the amounts initially invested plus the rate of
6 return specified in the interests or obligations authorized
7 pursuant to section 20 (b) of this Act.

8 (e) Tax credits issued pursuant to this Section shall be
9 freely transferable by their holders. DCEO shall, in
10 conjunction with the Illinois Department of Revenue, develop a
11 system for registration of any tax credits allowed or
12 transferred pursuant to this Act that permits verification that
13 any tax credit claimed upon a tax return is valid and properly
14 taken in the year of claim, and that any transfers of the tax
15 credit are made in accordance with the requirements of this
16 Act.

17 (f) Tax credits allowed or transferred pursuant to this Act
18 shall not be considered securities under any Illinois law
19 relating to securities.

20 Section 30. Powers and effectiveness. Nothing contained in
21 this Act is or shall be construed as a restriction or
22 limitation upon any powers that DCEO might otherwise have under
23 any other law of this State, and the provisions of this Act are
24 cumulative to those powers. The provisions of this Act do and
25 shall be construed to provide a complete, additional, and
26 alternative method for the doing of the things authorized and
27 shall be regarded as supplemental and additional to powers
28 conferred by any other laws.

29 Section 35. Acceptable investments. Investments by
30 designated investors in the Illinois Opportunity Fund shall be
31 deemed permissible investments for State chartered banks and
32 for domestic insurance companies under the appropriate laws of
33 the State of Illinois.

1 Section 40. Illinois Opportunity Special Projects Fund.
2 The Illinois Opportunity Special Projects Fund is created as a
3 special fund in the State treasury. DCEO may accept
4 disbursements from the Illinois Opportunity Fund for deposit
5 into the Illinois Opportunity Special Projects Fund and expend
6 those funds for the purposes set forth in Sections 15(g),
7 16(b), and 20(b) of this Act, subject to appropriation.

8 Section 100. The Illinois State Auditing Act is amended by
9 changing Section 3-1 as follows:

10 (30 ILCS 5/3-1) (from Ch. 15, par. 303-1)

11 Sec. 3-1. Jurisdiction of Auditor General. The Auditor
12 General has jurisdiction over all State agencies to make post
13 audits and investigations authorized by or under this Act or
14 the Constitution.

15 The Auditor General has jurisdiction over local government
16 agencies and private agencies only:

17 (a) to make such post audits authorized by or under
18 this Act as are necessary and incidental to a post audit of
19 a State agency or of a program administered by a State
20 agency involving public funds of the State, but this
21 jurisdiction does not include any authority to review local
22 governmental agencies in the obligation, receipt,
23 expenditure or use of public funds of the State that are
24 granted without limitation or condition imposed by law,
25 other than the general limitation that such funds be used
26 for public purposes;

27 (b) to make investigations authorized by or under this
28 Act or the Constitution; and

29 (c) to make audits of the records of local government
30 agencies to verify actual costs of state-mandated programs
31 when directed to do so by the Legislative Audit Commission
32 at the request of the State Board of Appeals under the
33 State Mandates Act.

34 In addition to the foregoing, the Auditor General may

1 conduct an audit of the Metropolitan Pier and Exposition
2 Authority, the Regional Transportation Authority, the Suburban
3 Bus Division, the Commuter Rail Division and the Chicago
4 Transit Authority and any other subsidized carrier when
5 authorized by the Legislative Audit Commission. Such audit may
6 be a financial, management or program audit, or any combination
7 thereof.

8 The audit shall determine whether they are operating in
9 accordance with all applicable laws and regulations. Subject to
10 the limitations of this Act, the Legislative Audit Commission
11 may by resolution specify additional determinations to be
12 included in the scope of the audit.

13 In addition to the foregoing, the Auditor General must also
14 conduct a financial audit of the Illinois Sports Facilities
15 Authority's expenditures of public funds in connection with the
16 reconstruction, renovation, remodeling, extension, or
17 improvement of all or substantially all of any existing
18 "facility", as that term is defined in the Illinois Sports
19 Facilities Authority Act.

20 The Auditor General may also conduct an audit, when
21 authorized by the Legislative Audit Commission, of any hospital
22 which receives 10% or more of its gross revenues from payments
23 from the State of Illinois, Department of Public Aid, Medical
24 Assistance Program.

25 The Auditor General is authorized to conduct financial and
26 compliance audits of the Illinois Distance Learning Foundation
27 and the Illinois Conservation Foundation.

28 As soon as practical after the effective date of this
29 amendatory Act of 1995, the Auditor General shall conduct a
30 compliance and management audit of the City of Chicago and any
31 other entity with regard to the operation of Chicago O'Hare
32 International Airport, Chicago Midway Airport and Merrill C.
33 Meigs Field. The audit shall include, but not be limited to, an
34 examination of revenues, expenses, and transfers of funds;
35 purchasing and contracting policies and practices; staffing
36 levels; and hiring practices and procedures. When completed,

1 the audit required by this paragraph shall be distributed in
2 accordance with Section 3-14.

3 The Auditor General shall conduct a financial and
4 compliance and program audit of distributions from the
5 Municipal Economic Development Fund during the immediately
6 preceding calendar year pursuant to Section 8-403.1 of the
7 Public Utilities Act at no cost to the city, village, or
8 incorporated town that received the distributions.

9 The Auditor General must conduct an audit of the Health
10 Facilities Planning Board pursuant to Section 19.5 of the
11 Illinois Health Facilities Planning Act.

12 The Auditor General of the State of Illinois shall annually
13 conduct or cause to be conducted a financial and compliance
14 audit of the books and records of any county water commission
15 organized pursuant to the Water Commission Act of 1985 and
16 shall file a copy of the report of that audit with the Governor
17 and the Legislative Audit Commission. The filed audit shall be
18 open to the public for inspection. The cost of the audit shall
19 be charged to the county water commission in accordance with
20 Section 6z-27 of the State Finance Act. The county water
21 commission shall make available to the Auditor General its
22 books and records and any other documentation, whether in the
23 possession of its trustees or other parties, necessary to
24 conduct the audit required. These audit requirements apply only
25 through July 1, 2007.

26 The Auditor General must conduct audits of the Rend Lake
27 Conservancy District as provided in Section 25.5 of the River
28 Conservancy Districts Act.

29 The Auditor General must conduct financial audits of the
30 Southeastern Illinois Economic Development Authority as
31 provided in Section 70 of the Southeastern Illinois Economic
32 Development Authority Act.

33 The Auditor General must conduct financial and compliance
34 audits of the Illinois Capital Investment Corporation and the
35 Illinois Opportunity Fund.

36 (Source: P.A. 93-226, eff. 7-22-03; 93-259, eff. 7-22-03;

1 93-275, eff. 7-22-03; 93-968, eff. 8-20-04.)

2 Section 105. The State Finance Act is amended by adding
3 Section 5.640 as follows:

4 (30 ILCS 105/5.640 new)

5 Sec. 5.640. The Illinois Opportunity Special Projects
6 Fund.

7 Section 110. Severability. The provisions of this Act are
8 severable under Section 1.31 of the Statute on Statutes.

9 Section 999. Effective date. This Act takes effect upon
10 becoming law.