

1 AN ACT concerning conservation.

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 University of Illinois Scientific Surveys Act.

6 Section 5. Purposes. The purposes of this Act are to  
7 establish at the University of Illinois an institute for  
8 natural resources sustainability and to transfer to it all  
9 rights, powers, duties, property, and functions currently  
10 vested in the Department of Natural Resources pertaining to its  
11 Natural History Survey division, State Water Survey division,  
12 State Geological Survey division, and Waste Management and  
13 Research Center division (which may also be referred to as the  
14 Illinois Sustainable Technology Center).

15 Section 10. Definitions. For the purposes of this Act,  
16 unless the context otherwise requires:

17 "Board of Trustees" means the Board of Trustees of the  
18 University of Illinois.

19 "Scientific Surveys" means, collectively, the State  
20 Natural History Survey division, the State Water Survey  
21 division, the State Geological Survey division, and the Waste  
22 Management and Research Center division transferred by this Act

1 from the Department of Natural Resources to the Board of  
2 Trustees.

3 Section 15. Organization. The Board of Trustees shall  
4 establish and operate an institute for natural sciences and  
5 sustainability. The institute shall contain within it the State  
6 Natural History Survey division, the State Water Survey  
7 division, the State Geological Survey division, the Waste  
8 Management and Research Center division, and such other related  
9 entities, research functions, and responsibilities as may be  
10 appropriate. The institute shall be under the governance and  
11 control of the Board of Trustees.

12 Section 20. General powers and duties. In addition to its  
13 other powers and duties, the Board of Trustees shall have the  
14 power to provide for the management and operation of the  
15 Scientific Surveys including, but not limited to, the following  
16 powers and duties which shall be performed by the Scientific  
17 Surveys:

18 (1) To investigate and study the natural resources of the  
19 State and to prepare reports and furnish information  
20 fundamental to the conservation and development of natural  
21 resources and, for that purpose, the officers and employees  
22 thereof shall have the authority to enter and cross all lands  
23 in this State, doing no damage to private property.

24 (2) To collaborate with and advise departments having

1 administrative powers and duties relating to the natural  
2 resources of the State, and to collaborate with similar  
3 departments in other states and with the United States  
4 Government.

5 (3) To conduct a natural history survey of the State,  
6 giving preference to subjects of educational and economical  
7 importance.

8 (4) To investigate the entomology of the State.

9 (5) To investigate all insects dangerous or injurious to  
10 agricultural or horticultural plants and crops, to livestock,  
11 to nursery trees and plants, to the products of the truck farm  
12 and vegetable garden, to shade trees and other ornamental  
13 vegetation of cities and villages, and to the products of the  
14 mills and the contents of warehouses, and all insects injurious  
15 or dangerous to the public health.

16 (6) To study the geological formation of the State with  
17 reference to its resources of coal, ores, clays, building  
18 stones, cement, materials suitable for use in the construction  
19 of the roads, gas, oil, mineral and artesian water, aquifers  
20 and aquitards, and other resources and products.

21 (7) To cooperate with United States federal agencies in the  
22 preparation and completion of a contour topographic map and the  
23 collection, recording, and printing of water and atmospheric  
24 resource data including stream flow measurements and to collect  
25 facts and data concerning the volumes and flow of underground,  
26 surface, and atmospheric waters of the State and to determine

1 the mineral and chemical qualities of water from different  
2 geological formations and surface and atmospheric waters for  
3 the various sections of the State.

4 (8) To act as the central data repository and research  
5 coordinator for the State in matters related to water and  
6 atmospheric resources. The State Water Survey of the University  
7 of Illinois may monitor and evaluate all weather modification  
8 operations in Illinois.

9 (9) To collaborate with the Illinois State Academy of  
10 Science and to publish the results of the investigations and  
11 research in the field of natural science to the end that the  
12 same may be distributed to the interested public.

13 (10) To perform all other duties and assume all obligations  
14 of the Department of Natural Resources pertaining to the State  
15 Water Survey, the State Geological Survey, the State Natural  
16 History Survey, and the Waste Management and Research Center.

17 (11) To maintain all previously existing relationships  
18 between the State Water Survey, the State Geological Survey,  
19 the State Natural History Survey, and the Illinois Sustainable  
20 Technology Center and the public and private colleges and  
21 universities in Illinois.

22 (12) To participate in federal geologic mapping programs.

23 (13) To conduct educational programs to further the  
24 exchange of information to reduce the generation of hazardous  
25 wastes or to treat or dispose of such wastes so as to make them  
26 nonhazardous.

1           (14) To provide a technical information service for  
2 industries involved in the generation, treatment, or disposal  
3 of hazardous wastes.

4           (15) To disseminate information regarding advances in  
5 hazardous waste management technology that could both protect  
6 the environment and further industrial productivity.

7           (16) To provide research in areas related to reduction of  
8 the generation of hazardous wastes; treatment, recycling and  
9 reuse; and other issues that the Board may suggest.

10           Section 25. Transfer of powers. All of the rights, powers,  
11 and duties vested by law in the Department of Natural  
12 Resources, or in any office, division, or bureau thereof, and  
13 pertaining in any way to the operation, management, control,  
14 and maintenance of the Scientific Surveys, including but not  
15 limited to, the authority to impose and collect fees and  
16 service charges, as deemed appropriate and necessary by the  
17 Board of Trustees, for the services performed or provided by  
18 the Scientific Surveys, are hereby transferred to and vested in  
19 the Board of Trustees.

20           Section 30. Transfer of personnel. The employment of all  
21 scientific and nonscientific personnel employed by the  
22 Department of Natural Resources on behalf of the Scientific  
23 Surveys is hereby transferred to the Board of Trustees. The  
24 transfer shall not affect the status and rights of any person

1 under the State Universities Retirement System or the State  
2 Universities Civil Service System.

3 Section 35. Transfer of property.

4 (a) All books, records, papers, documents, property (real  
5 and personal), contracts, grants, and pending business in any  
6 way pertaining to the Scientific Surveys and to the rights,  
7 powers, and duties transferred by this Act from the Department  
8 of Natural Resources to the Board of Trustees, including but  
9 not limited to material in electronic or magnetic format and  
10 necessary computer hardware and software, shall be delivered  
11 and transferred to the Board of Trustees.

12 (b) The Board of Trustees shall succeed to, assume, and  
13 exercise all rights, powers, duties, property, and  
14 responsibilities formerly exercised by the Department of  
15 Natural Resources on behalf of the Scientific Surveys prior to  
16 the effective date of this Section. All contracts, grants, and  
17 agreements entered into by any of the Scientific Surveys or the  
18 Department of Natural Resources on behalf of any of the  
19 Scientific Surveys, prior to the effective date of this Section  
20 shall subsist notwithstanding the transfer of the functions of  
21 the Department of Natural Resources with respect to Scientific  
22 Surveys to the Board of Trustees. All bonds, notes, and other  
23 evidences of indebtedness outstanding on the effective date of  
24 this Section issued by the Department of Natural Resources on  
25 behalf of the Scientific Surveys, or any of them, shall become

1 the bonds, notes, or other evidences of indebtedness of the  
2 University of Illinois and shall be otherwise unaffected by the  
3 transfer of functions to the Board of Trustees.

4 (c) The title to all patents, trademarks, and copyrights  
5 issued to any of the Scientific Surveys prior to the effective  
6 date of this Section is hereby transferred to and vested in the  
7 Board of Trustees. Any income received from those patents,  
8 trademarks, and copyrights and any funds received in connection  
9 with the retention, receipt, assignment, license, sale, or  
10 transfer of interest in, rights to, or income from discoveries,  
11 inventions, patents, trademarks, or copyrightable works of any  
12 of the Scientific Surveys shall become the property of the  
13 Board of Trustees on behalf of the University of Illinois.

14 (d) The title to all other property, whether real,  
15 personal, or mixed, and all accounts receivable belonging to or  
16 under the jurisdiction of the Department of Natural Resources  
17 in any way pertaining to the Scientific Surveys, or any of  
18 them, prior to the effective date of this Section is hereby  
19 transferred to and vested in the Board of Trustees on behalf of  
20 the University of Illinois.

21 Section 40. Unexpended moneys transferred.

22 (a) The right of custody, possession, and control over all  
23 items of income, funds, or deposits in any way pertaining to  
24 the Scientific Surveys prior to the effective date of this  
25 Section that are held or retained by, or under the jurisdiction

1 of, the Department of Natural Resources is hereby transferred  
2 to and vested in the Board of Trustees to be retained by the  
3 University in its treasury, or deposited with a bank or savings  
4 and loan association, all in accordance with the provisions of  
5 paragraph (2) of Section 6d of the State Finance Act.

6 (b) All unexpended appropriations and balances and other  
7 moneys available for use in connection with any of the  
8 functions transferred to the Board of Trustees under this Act,  
9 including but not limited to all unexpended grant proceeds  
10 pertaining in any way to the Scientific Surveys, is hereby  
11 transferred from the Department of Natural Resources to the  
12 Board of Trustees for use by the Board of Trustees in the  
13 exercise of those functions transferred. Unexpended balances  
14 so transferred shall be retained by the University of Illinois  
15 in its own treasury, or deposited with a bank or savings and  
16 loan association, and expended only for the purpose for which  
17 the appropriations or grants were originally made, all in  
18 accordance with the provisions of paragraph (2) of Section 6d  
19 of the State Finance Act.

20 Section 45. Funds retained and disbursed. The University of  
21 Illinois may retain in its treasury any funds derived from  
22 contracts, grants, fees, service charges, rentals, or other  
23 sources, assessed or obtained for or arising out of the  
24 operation of the Scientific Surveys. Those funds shall be  
25 disbursed from time to time pursuant to the order and direction



1 of the Board of Trustees, and in accordance with any contracts,  
2 pledges, trusts, or agreements heretofore or hereafter made by  
3 the Board of Trustees.

4 Section 50. Savings provisions.

5 (a) The rights, powers and duties retained in the  
6 Department of Natural Resources and not transferred under this  
7 Act shall remain vested in and shall be exercised by the  
8 Department subject to the provisions of this Act.

9 (b) The transfer of rights, powers, and duties to the Board  
10 of Trustees under this Act does not invalidate any previous  
11 action taken by or in respect to any of its predecessor  
12 departments or divisions or their officers or employees.  
13 References to these predecessor departments or divisions or  
14 their officers or employees in any document, contract,  
15 agreement, or law shall, in appropriate contexts, be deemed to  
16 refer to the successor department, agency, officer, or  
17 employee. The Scientific Surveys shall continue to be eligible  
18 to receive sponsored funding from the Department of Natural  
19 Resources or any other State agency.

20 (c) The transfer of powers and duties to the Board of  
21 Trustees under this Act does not affect any person's rights,  
22 obligations, or duties, including any civil or criminal  
23 penalties applicable thereto, arising out of those transferred  
24 powers and duties.

25 (d) Whenever reports or notices are now required to be made

1 or given or documents furnished or served by any person to or  
2 upon the departments or divisions, officers, and employees  
3 transferred by this Act, they shall be made, given, furnished,  
4 or served in the same manner to or upon the successor  
5 department or agency, officer, or employee.

6 (e) This Act does not affect any act done, ratified, or  
7 cancelled, any right occurring or established, or any action or  
8 proceeding had or commenced in an administrative, civil, or  
9 criminal cause before this Act takes effect. Any such action or  
10 proceeding still pending may be prosecuted and continued by the  
11 Department of Natural Resources.

12 Section 55. Successor agency. For purposes of the Successor  
13 Agency Act and Section 9b of the State Finance Act, the Board  
14 of Trustees is the successor to the Department of Natural  
15 Resources with respect to the rights, powers, duties, property,  
16 functions, and other matters transferred by this Act.

17 Section 800. The Personnel Code is amended by changing  
18 Section 4c as follows:

19 (20 ILCS 415/4c) (from Ch. 127, par. 63b104c)

20 Sec. 4c. General exemptions. The following positions in  
21 State service shall be exempt from jurisdictions A, B, and C,  
22 unless the jurisdictions shall be extended as provided in this  
23 Act:

1 (1) All officers elected by the people.

2 (2) All positions under the Lieutenant Governor,  
3 Secretary of State, State Treasurer, State Comptroller,  
4 State Board of Education, Clerk of the Supreme Court,  
5 Attorney General, and State Board of Elections.

6 (3) Judges, and officers and employees of the courts,  
7 and notaries public.

8 (4) All officers and employees of the Illinois General  
9 Assembly, all employees of legislative commissions, all  
10 officers and employees of the Illinois Legislative  
11 Reference Bureau, the Legislative Research Unit, and the  
12 Legislative Printing Unit.

13 (5) All positions in the Illinois National Guard and  
14 Illinois State Guard, paid from federal funds or positions  
15 in the State Military Service filled by enlistment and paid  
16 from State funds.

17 (6) All employees of the Governor at the executive  
18 mansion and on his immediate personal staff.

19 (7) Directors of Departments, the Adjutant General,  
20 the Assistant Adjutant General, the Director of the  
21 Illinois Emergency Management Agency, members of boards  
22 and commissions, and all other positions appointed by the  
23 Governor by and with the consent of the Senate.

24 (8) The presidents, other principal administrative  
25 officers, and teaching, research and extension faculties  
26 of Chicago State University, Eastern Illinois University,

1           Governors State University, Illinois State University,  
2           Northeastern Illinois University, Northern Illinois  
3           University, Western Illinois University, the Illinois  
4           Community College Board, Southern Illinois University,  
5           Illinois Board of Higher Education, University of  
6           Illinois, State Universities Civil Service System,  
7           University Retirement System of Illinois, and the  
8           administrative officers and scientific and technical staff  
9           of the Illinois State Museum.

10           (9) All other employees except the presidents, other  
11           principal administrative officers, and teaching, research  
12           and extension faculties of the universities under the  
13           jurisdiction of the Board of Regents and the colleges and  
14           universities under the jurisdiction of the Board of  
15           Governors of State Colleges and Universities, Illinois  
16           Community College Board, Southern Illinois University,  
17           Illinois Board of Higher Education, Board of Governors of  
18           State Colleges and Universities, the Board of Regents,  
19           University of Illinois, State Universities Civil Service  
20           System, University Retirement System of Illinois, so long  
21           as these are subject to the provisions of the State  
22           Universities Civil Service Act.

23           (10) The State Police so long as they are subject to  
24           the merit provisions of the State Police Act.

25           (11) (Blank). ~~The scientific staff of the State~~  
26           ~~Scientific Surveys and the Waste Management and Research~~

1 ~~Center.~~

2 (12) The technical and engineering staffs of the  
3 Department of Transportation, the Department of Nuclear  
4 Safety, the Pollution Control Board, and the Illinois  
5 Commerce Commission, and the technical and engineering  
6 staff providing architectural and engineering services in  
7 the Department of Central Management Services.

8 (13) All employees of the Illinois State Toll Highway  
9 Authority.

10 (14) The Secretary of the Illinois Workers'  
11 Compensation Commission.

12 (15) All persons who are appointed or employed by the  
13 Director of Insurance under authority of Section 202 of the  
14 Illinois Insurance Code to assist the Director of Insurance  
15 in discharging his responsibilities relating to the  
16 rehabilitation, liquidation, conservation, and dissolution  
17 of companies that are subject to the jurisdiction of the  
18 Illinois Insurance Code.

19 (16) All employees of the St. Louis Metropolitan Area  
20 Airport Authority.

21 (17) All investment officers employed by the Illinois  
22 State Board of Investment.

23 (18) Employees of the Illinois Young Adult  
24 Conservation Corps program, administered by the Illinois  
25 Department of Natural Resources, authorized grantee under  
26 Title VIII of the Comprehensive Employment and Training Act

1 of 1973, 29 USC 993.

2 (19) Seasonal employees of the Department of  
3 Agriculture for the operation of the Illinois State Fair  
4 and the DuQuoin State Fair, no one person receiving more  
5 than 29 days of such employment in any calendar year.

6 (20) All "temporary" employees hired under the  
7 Department of Natural Resources' Illinois Conservation  
8 Service, a youth employment program that hires young people  
9 to work in State parks for a period of one year or less.

10 (21) All hearing officers of the Human Rights  
11 Commission.

12 (22) All employees of the Illinois Mathematics and  
13 Science Academy.

14 (23) All employees of the Kankakee River Valley Area  
15 Airport Authority.

16 (24) The commissioners and employees of the Executive  
17 Ethics Commission.

18 (25) The Executive Inspectors General, including  
19 special Executive Inspectors General, and employees of  
20 each Office of an Executive Inspector General.

21 (26) The commissioners and employees of the  
22 Legislative Ethics Commission.

23 (27) The Legislative Inspector General, including  
24 special Legislative Inspectors General, and employees of  
25 the Office of the Legislative Inspector General.

26 (28) The Auditor General's Inspector General and

1 employees of the Office of the Auditor General's Inspector  
2 General.

3 (Source: P.A. 93-617, eff. 12-9-03; 93-721, eff. 1-1-05;  
4 93-1091, eff. 3-29-05.)

5 Section 805. The Department of Commerce and Economic  
6 Opportunity Law of the Civil Administrative Code of Illinois is  
7 amended by changing Section 605-515 as follows:

8 (20 ILCS 605/605-515) (was 20 ILCS 605/46.13a)

9 Sec. 605-515. Environmental Regulatory Assistance Program.

10 (a) In this Section, except where the context clearly  
11 requires otherwise, "small business stationary source" means a  
12 business that is owned or operated by a person that employs 100  
13 or fewer individuals; is a small business; is not a major  
14 stationary source as defined in Titles I and III of the federal  
15 1990 Clean Air Act Amendments; does not emit 50 tons or more  
16 per year of any regulated pollutant (as defined under the  
17 federal Clean Air Act); and emits less than 75 tons per year of  
18 all regulated pollutants.

19 (b) The Department may:

20 (1) Provide access to technical and compliance  
21 information for Illinois firms, including small and middle  
22 market companies, to facilitate local business compliance  
23 with the federal, State, and local environmental  
24 regulations.

1           (2) Coordinate and enter into cooperative agreements  
2 with a State ombudsman office, which shall be established  
3 in accordance with the federal 1990 Clean Air Act  
4 Amendments to provide direct oversight to the program  
5 established under that Act.

6           (3) Enter into contracts, cooperative agreements, and  
7 financing agreements and establish and collect charges and  
8 fees necessary or incidental to the performance of duties  
9 and the execution of powers under this Section.

10          (4) Accept and expend, subject to appropriation,  
11 gifts, grants, awards, funds, contributions, charges,  
12 fees, and other financial or nonfinancial aid from federal,  
13 State, and local governmental agencies, businesses,  
14 educational agencies, not-for-profit organizations, and  
15 other entities, for the purposes of this Section.

16          (5) Establish, staff, and administer programs and  
17 services and adopt such rules and regulations necessary to  
18 carry out the intent of this Section and Section 507,  
19 "Small Business Stationary Source Technical and  
20 Environmental Compliance Assistance Program", of the  
21 federal 1990 Clean Air Act Amendments.

22          (c) The Department's environmental compliance programs and  
23 services for businesses may include, but need not be limited  
24 to, the following:

25           (1) Communication and outreach services to or on behalf  
26 of individual companies, including collection and



1 compilation of appropriate information on regulatory  
2 compliance issues and control technologies, and  
3 dissemination of that information through publications,  
4 direct mailings, electronic communications, conferences,  
5 workshops, one-on-one counseling, and other means of  
6 technical assistance.

7 (2) Provision of referrals and access to technical  
8 assistance, pollution prevention and facility audits, and  
9 otherwise serving as an information clearinghouse on  
10 pollution prevention through the coordination of the Waste  
11 Management and Research Center, ~~a division~~ of the  
12 University of Illinois Department of Natural Resources. In  
13 addition, environmental and regulatory compliance issues  
14 and techniques, which may include business rights and  
15 responsibilities, applicable permitting and compliance  
16 requirements, compliance methods and acceptable control  
17 technologies, release detection, and other applicable  
18 information may be provided.

19 (3) Coordination with and provision of administrative  
20 and logistical support to the State Compliance Advisory  
21 Panel.

22 (d) There is hereby created a special fund in the State  
23 Treasury to be known as the Small Business Environmental  
24 Assistance Fund. Monies received under subdivision (b)(4) of  
25 this Section shall be deposited into the Fund.

26 Monies in the Small Business Environmental Assistance Fund

1 may be used, subject to appropriation, only for the purposes  
2 authorized by this Section.

3 (Source: P.A. 90-490, eff. 8-17-97; 91-239, eff. 1-1-00.)

4 Section 810. The Department of Natural Resources Act is  
5 amended by changing Sections 1-25 and 20-5 as follows:

6 (20 ILCS 801/1-25)

7 Sec. 1-25. Powers of the ~~scientific surveys and~~ State  
8 Museum. In addition to its other powers and duties, the  
9 Department shall have the following powers and duties which  
10 shall be performed by the ~~scientific surveys and the~~ State  
11 Museum:

12 (1) To investigate and study the natural resources of  
13 the State and to prepare printed reports and furnish  
14 information fundamental to the conservation and  
15 development of natural resources and for that purpose the  
16 officers and employees thereof may, pursuant to rule  
17 adopted by the Department, enter and cross all lands in  
18 this State, doing no damage to private property.

19 (2) To cooperate with and advise departments having  
20 administrative powers and duties relating to the natural  
21 resources of the State, and to cooperate with similar  
22 departments in other states and with the United States  
23 Government.

24 ~~(3) To conduct a natural history survey of the State,~~

1 ~~giving preference to subjects of educational and~~  
2 ~~economical importance.~~

3 ~~(4) To publish, from time to time, reports covering the~~  
4 ~~entire field of zoology and botany of the State.~~

5 ~~(5) To supply natural history specimens to the State~~  
6 ~~educational institutions and to the public schools.~~

7 ~~(6) To investigate the entomology of the State.~~

8 ~~(7) To investigate all insects dangerous or injurious~~  
9 ~~to agricultural or horticultural plants and crops,~~  
10 ~~livestock, to nursery trees and plants, to the products of~~  
11 ~~the truck farm and vegetable garden, to shade trees and~~  
12 ~~other ornamental vegetation of cities and villages, to the~~  
13 ~~products of the mills and the contents of warehouses, and~~  
14 ~~all insects injurious or dangerous to the public health.~~

15 ~~(8) To conduct experiments with methods for the~~  
16 ~~prevention, arrest, abatement and control of insects~~  
17 ~~injurious to persons or property.~~

18 ~~(9) To instruct the people, by lecture, demonstration~~  
19 ~~or bulletin, in the best methods of preserving and~~  
20 ~~protecting their property and health against injuries by~~  
21 ~~insects.~~

22 ~~(10) To publish, from time to time, articles on the~~  
23 ~~injurious and beneficial insects of the State.~~

24 ~~(11) To study the geological formation of the State~~  
25 ~~with reference to its resources of coal, ores, clays,~~  
26 ~~building stones, cement, materials suitable for use in the~~

1 ~~construction of roads, gas, mineral and artesian water and~~  
2 ~~other products.~~

3 ~~(12) To publish, from time to time, topographical,~~  
4 ~~geological and other maps to illustrate resources of the~~  
5 ~~State.~~

6 ~~(13) To publish, from time to time, bulletins giving a~~  
7 ~~general and detailed description of the geological and~~  
8 ~~mineral resources, including water resources, of the~~  
9 ~~State.~~

10 ~~(14) To cooperate with United States federal agencies~~  
11 ~~in the preparation and completion of a contour topographic~~  
12 ~~map and the collection, recording and printing of water and~~  
13 ~~atmospheric resource data including stream flow~~  
14 ~~measurements and to collect facts and data concerning the~~  
15 ~~volumes and flow of underground, surface and atmospheric~~  
16 ~~waters of the State and to determine the mineral qualities~~  
17 ~~of water from different geological formations and surface~~  
18 ~~and atmospheric waters for the various sections of the~~  
19 ~~State.~~

20 ~~(15) To publish, from time to time, the results of its~~  
21 ~~investigations of the mineral qualities, volumes and flow~~  
22 ~~of underground and surface waters of the State to the end~~  
23 ~~that the available water resources of the State may be~~  
24 ~~better known and to make mineral analyses of samples of~~  
25 ~~water from municipal or private sources giving no opinion~~  
26 ~~from those analyses of the hygienic, physiological or~~

1 ~~medicinal qualities of such waters.~~

2 ~~(16) To act as the central data repository and research~~  
3 ~~coordinator for the State in matters related to water and~~  
4 ~~atmospheric resources. The State Water Survey Division of~~  
5 ~~the Department may monitor and evaluate all weather~~  
6 ~~modification operations in Illinois.~~

7 ~~(17) To distribute, in its discretion, to the various~~  
8 ~~educational institutions of the State, specimens, samples,~~  
9 ~~and materials collected by it after the same have served~~  
10 ~~the purposes of the Department.~~

11 (3) ~~(18)~~ To cooperate with the Illinois State Academy  
12 of Science and to publish a suitable number of the results  
13 of the investigations and research in the field of natural  
14 science to the end that the same may be distributed to the  
15 interested public.

16 (4) ~~(19)~~ To maintain a State Museum, and to collect and  
17 preserve objects of scientific and artistic value,  
18 representing past and present fauna and flora, the life and  
19 work of man, geological history, natural resources, and the  
20 manufacturing and fine arts; to interpret for and educate  
21 the public concerning the foregoing.

22 (5) ~~(20)~~ To cooperate with the Illinois State Museum  
23 Society for the mutual benefit of the Museum and the  
24 Society, with the Museum furnishing necessary space for the  
25 Society to carry on its functions and keep its records,  
26 and, upon the recommendation of the Museum Director with

1 the approval of the Board of State Museum Advisors and the  
2 Director of the Department, to enter into agreements with  
3 the Illinois State Museum Society for the operation of a  
4 sales counter and other concessions for the mutual benefit  
5 of the Museum and the Society.

6 (6) ~~(21)~~ To accept grants of property and to hold  
7 property to be administered as part of the State Museum for  
8 the purpose of preservation, research of interpretation of  
9 significant areas within the State for the purpose of  
10 preserving, studying and interpreting archaeological and  
11 natural phenomena.

12 (7) ~~(22)~~ To contribute to and support the operations,  
13 programs and capital development of public museums in this  
14 State. For the purposes of this Section, "public museum"  
15 means a facility: (A) that is operating for the purposes of  
16 promoting cultural development through special activities  
17 or programs or through performing arts that are performed  
18 in an indoor setting, and acquiring, conserving,  
19 preserving, studying, interpreting, enhancing, and in  
20 particular, organizing and continuously exhibiting  
21 specimens, artifacts, articles, documents and other things  
22 of historical, anthropological, archaeological,  
23 industrial, scientific or artistic import, to the public  
24 for its instruction and enjoyment, and (B) that either (i)  
25 is operated by or located upon land owned by a unit of  
26 local government or (ii) is a museum that has an annual

1 attendance of at least 150,000 and offers educational  
2 programs to school groups during school hours. A museum is  
3 eligible to receive funds for capital development under  
4 this subdivision (7) ~~(22)~~ only if it is operated by or  
5 located upon land owned by a unit of local government or if  
6 it is certified by a unit of local government in which it  
7 is located as a public museum meeting the criteria of this  
8 Section. Recipients of funds for capital development under  
9 this subdivision (7) ~~(22)~~ shall match State funds with  
10 local or private funding according to the following:

11 (a) for a public museum with an attendance of  
12 300,000 or less during the preceding calendar year, no  
13 match is required;

14 (b) for a public museum with an attendance of over  
15 300,000 but less than 600,000 during the preceding  
16 calendar year, the match must be at a ratio of \$1 from  
17 local and private funds for every \$1 in State funds;  
18 and

19 (c) for a public museum with an attendance of over  
20 600,000 during the preceding calendar year, the match  
21 must be at a ratio of \$2 from local and private funds  
22 for every \$1 in State funds.

23 The Department shall formulate rules and regulations  
24 relating to the allocation of any funds appropriated by the  
25 General Assembly for the purpose of contributing to the  
26 support of public museums in this State.

1           (8) ~~(23)~~ To perform all other duties and assume all  
2 obligations of the former Department of Energy and Natural  
3 Resources and the former Department of Registration and  
4 Education pertaining to ~~the State Water Survey, the State~~  
5 ~~Geological Survey, the State Natural History Survey, and~~  
6 the State Museum.

7           ~~(24) To maintain all previously existing relationships~~  
8 ~~between the State Water Survey, State Geological Survey,~~  
9 ~~and State Natural History Survey and the public and private~~  
10 ~~colleges and universities in Illinois.~~

11           ~~(25) To participate in federal geologic mapping~~  
12 ~~programs.~~

13 (Source: P.A. 92-606, eff. 6-28-02; 93-872, eff. 1-1-05.)

14 (20 ILCS 801/20-5)

15 Sec. 20-5. State Museum. The Department of Natural  
16 Resources shall have within it the office ~~a division consisting~~  
17 ~~of the Illinois State Museum, which shall be within the Office~~  
18 ~~of Scientific Research and Analysis.~~ The Board of the Illinois  
19 State Museum is retained as the governing board for the State  
20 Museum.

21 (Source: P.A. 89-50, eff. 7-1-95; 89-445, eff. 2-7-96; 90-490,  
22 eff. 8-17-97.)

23 (20 ILCS 801/15-5 rep.)

24 (20 ILCS 801/15-10 rep.)



1 Section 815. The Department of Natural Resources Act is  
2 amended by repealing Sections 15-5 and 15-10.

3 Section 820. The Energy Conservation and Coal Development  
4 Act is amended by changing Section 8 as follows:

5 (20 ILCS 1105/8) (from Ch. 96 1/2, par. 7408)

6 Sec. 8. Illinois Coal Development Board.

7 (a) There shall be established as an advisory board to the  
8 Department, the Illinois Coal Development Board, hereinafter  
9 in this Section called the Board. The Board shall be composed  
10 of the following voting members: the Director of the  
11 Department, who shall be Chairman thereof; the Deputy Director  
12 of the Bureau of Business Development within the Department of  
13 Commerce and Economic Opportunity; the President of the  
14 University of Illinois or his or her designee; the Director of  
15 Natural Resources or that Director's designee; the Director of  
16 the Office of Mines and Minerals within the Department of  
17 Natural Resources; 4 members of the General Assembly (one each  
18 appointed by the President of the Senate, the Senate Minority  
19 Leader, the Speaker of the House, and the House Minority  
20 Leader); and 8 persons appointed by the Governor, with the  
21 advice and consent of the Senate, including representatives of  
22 Illinois industries that are involved in the extraction,  
23 utilization or transportation of Illinois coal, persons  
24 representing financial or banking interests in the State, and

1 persons experienced in international business and economic  
2 development. These members shall be chosen from persons of  
3 recognized ability and experience in their designated field.  
4 The members appointed by the Governor shall serve for terms of  
5 4 years, unless otherwise provided in this subsection. The  
6 initial terms of the original appointees shall expire on July  
7 1, 1985, except that the Governor shall designate 3 of the  
8 original appointees to serve initial terms that shall expire on  
9 July 1, 1983. The initial term of the member appointed by the  
10 Governor to fill the office created after July 1, 1985 shall  
11 expire on July 1, 1989. The initial terms of the members  
12 appointed by the Governor to fill the offices created by this  
13 amendatory Act of 1993 shall expire on July 1, 1995, and July  
14 1, 1997, as determined by the Governor. A member appointed by a  
15 Legislative Leader shall serve for the duration of the General  
16 Assembly for which he or she is appointed, so long as the  
17 member remains a member of that General Assembly.

18 The Board shall meet at least annually or at the call of  
19 the Chairman. At any time the majority of the Board may  
20 petition the Chairman for a meeting of the Board. Nine members  
21 of the Board shall constitute a quorum. Members of the Board  
22 shall be reimbursed for actual and necessary expenses incurred  
23 while performing their duties as members of the Board from  
24 funds appropriated to the Department for such purpose.

25 (b) The Board shall provide advice and make recommendations  
26 on the following Department powers and duties:

1           (1) To develop an annual agenda which may include but  
2           is not limited to research and methodologies conducted for  
3           the purpose of increasing the utilization of Illinois' coal  
4           and other fossil fuel resources, with emphasis on high  
5           sulfur coal, in the following areas: coal extraction,  
6           preparation and characterization; coal technologies  
7           (combustion, gasification, liquefaction, and related  
8           processes); marketing; public awareness and education, as  
9           those terms are used in the Illinois Coal Technology  
10          Development Assistance Act; transportation; procurement of  
11          sites and issuance of permits; and environmental impacts.

12          (2) To support and coordinate Illinois coal research,  
13          and to approve projects consistent with the annual agenda  
14          and budget for coal research and the purposes of this Act  
15          and to approve the annual budget and operating plan for  
16          administration of the Board.

17          (3) To promote the coordination of available research  
18          information on the production, preparation, distribution  
19          and uses of Illinois coal. The Board shall advise the  
20          existing research institutions within the State on areas  
21          where research may be necessary.

22          (4) To cooperate to the fullest extent possible with  
23          State and federal agencies and departments, independent  
24          organizations, and other interested groups, public and  
25          private, for the purposes of promoting Illinois coal  
26          resources.

1           (5) To submit an annual report to the Governor and the  
2           General Assembly outlining the progress and  
3           accomplishments made in the year, providing an accounting  
4           of funds received and disbursed, reviewing the status of  
5           research contracts, and furnishing other relevant  
6           information.

7           (6) To focus on existing coal research efforts in  
8           carrying out its mission; to make use of existing research  
9           facilities in Illinois or other institutions carrying out  
10          research on Illinois coal; as far as practicable, to make  
11          maximum use of the research facilities available at the  
12          Illinois State Geological Survey of the University of  
13          Illinois, the Coal Extraction and Utilization Research  
14          Center, the Illinois Coal Development Park and  
15          universities and colleges located within the State of  
16          Illinois; and to create a consortium or center which  
17          conducts, coordinates and supports coal research  
18          activities in the State of Illinois. Programmatic  
19          activities of such a consortium or center shall be subject  
20          to approval by the Department and shall be consistent with  
21          the purposes of this Act. The Department may authorize  
22          expenditure of funds in support of the administrative and  
23          programmatic operations of such a center or consortium  
24          consistent with its statutory authority. Administrative  
25          actions undertaken by or for such a center or consortium  
26          shall be subject to the approval of the Department.

1           (7) To make a reasonable attempt, before initiating any  
2           research under this Act, to avoid duplication of effort and  
3           expense by coordinating the research efforts among various  
4           agencies, departments, universities or organizations, as  
5           the case may be.

6           (8) To adopt, amend and repeal rules, regulations and  
7           bylaws governing the Board's organization and conduct of  
8           business.

9           (9) To authorize the expenditure of monies from the  
10          Coal Technology Development Assistance Fund, the Public  
11          Utility Fund and other funds in the State Treasury  
12          appropriated to the Department, consistent with the  
13          purposes of this Act.

14          (10) To seek, accept, and expend gifts or grants in any  
15          form, from any public agency or from any other source. Such  
16          gifts and grants may be held in trust by the Department and  
17          expended at the direction of the Department and in the  
18          exercise of the Department's powers and performance of the  
19          Department's duties.

20          (11) To publish, from time to time, the results of  
21          Illinois coal research projects funded through the  
22          Department.

23          (12) To authorize loans from appropriations from the  
24          Build Illinois Bond Purposes Fund, the Build Illinois Bond  
25          Fund and the Illinois Industrial Coal Utilization Fund.

26          (13) To authorize expenditures of monies for coal

1 development projects under the authority of Section 13 of  
2 the General Obligation Bond Act.

3 (c) The Board shall also provide advice and make  
4 recommendations on the following Department powers and duties:

5 (1) To create and maintain thorough, current and  
6 accurate records on all markets for and actual uses of coal  
7 mined in Illinois, and to make such records available to  
8 the public upon request.

9 (2) To identify all current and anticipated future  
10 technical, economic, institutional, market, environmental,  
11 regulatory and other impediments to the utilization of  
12 Illinois coal.

13 (3) To monitor and evaluate all proposals and plans of  
14 public utilities related to compliance with the  
15 requirements of Title IV of the federal Clean Air Act  
16 Amendments of 1990, or with any other law which might  
17 affect the use of Illinois coal, for the purposes of (i)  
18 determining the effects of such proposals or plans on the  
19 use of Illinois coal, and (ii) identifying alternative  
20 plans or actions which would maintain or increase the use  
21 of Illinois coal.

22 (4) To develop strategies and to propose policies to  
23 promote environmentally responsible uses of Illinois coal  
24 for meeting electric power supply requirements and for  
25 other purposes.

26 (5) (Blank).

1 (Source: P.A. 94-793, eff. 5-19-06.)

2 Section 825. The Clean Coal FutureGen for Illinois Act is  
3 amended by changing Section 20 as follows:

4 (20 ILCS 1107/20)

5 (Section scheduled to be repealed on December 31, 2010)

6 Sec. 20. Title to sequestered gas. If the FutureGen Project  
7 locates at either the Tuscola or Mattoon site in the State of  
8 Illinois, then the FutureGen Alliance agrees that the Operator  
9 shall transfer and convey and the State of Illinois shall  
10 accept and receive, with no payment due from the State of  
11 Illinois, all rights, title, and interest in and to and any  
12 liabilities associated with the sequestered gas, including any  
13 current or future environmental benefits, marketing claims,  
14 tradable credits, emissions allocations or offsets (voluntary  
15 or compliance based) associated therewith, upon such gas  
16 reaching the status of post-injection, which shall be verified  
17 by the Agency or other designated State of Illinois agency. The  
18 Operator shall retain all rights, title, and interest in and to  
19 and any liabilities associated with the pre-injection  
20 sequestered gas. The Illinois State Geological Survey of the  
21 University of Illinois ~~Department of Natural Resources~~ shall  
22 monitor, measure, and verify the permanent status of  
23 sequestered carbon dioxide and co-sequestered gases in which  
24 the State has acquired the right, title, and interest under

1 this Section.

2 (Source: P.A. 95-18, eff. 7-30-07.)

3 Section 830. The Hazardous Waste Technology Exchange  
4 Service Act is amended by changing Sections 3, 4, and 6 as  
5 follows:

6 (20 ILCS 1130/3) (from Ch. 111 1/2, par. 6803)

7 Sec. 3. For the purposes of this Act, unless the context  
8 otherwise requires:

9 (a) "Board" means the Board of Trustees of the University  
10 of Illinois ~~Natural Resources and Conservation of the~~  
11 ~~Department of Natural Resources.~~

12 (b) "Center" means the Waste Management and Research Center  
13 of the University of Illinois ~~Department of Natural Resources.~~

14 ~~(c) "Department" means the Department of Natural~~  
15 ~~Resources.~~

16 (Source: P.A. 89-445, eff. 2-7-96; 90-490, eff. 8-17-97.)

17 (20 ILCS 1130/4) (from Ch. 111 1/2, par. 6804)

18 Sec. 4. Waste Management and Research Center. The ~~As soon~~  
19 ~~as may be practicable after the effective date of this Act, the~~  
20 ~~Department shall establish a Hazardous Waste Research and~~  
21 ~~Information Center. On and after the effective date of this~~  
22 ~~amendatory Act of 1997, that Center shall be known as the Waste~~  
23 ~~Management and Research Center~~ is transferred to the University



1 of Illinois.

2 (Source: P.A. 90-490, eff. 8-17-97.)

3 (20 ILCS 1130/6) (from Ch. 111 1/2, par. 6806)

4 Sec. 6. Appropriations. For the purpose of maintaining the  
5 Waste Management and Research Center, paying the expenses and  
6 providing the facilities and structures incident thereto,  
7 appropriations shall be made to the University of Illinois  
8 ~~Department~~, payable from the Hazardous Waste Research Fund and  
9 other funds in the State Treasury.

10 (Source: P.A. 90-490, eff. 8-17-97.)

11 (20 ILCS 1130/5 rep.)

12 Section 831. The Hazardous Waste Technology Exchange  
13 Service Act is amended by repealing Section 5.

14 Section 835. The Green Governments Illinois Act is amended  
15 by changing Section 15 as follows:

16 (20 ILCS 3954/15)

17 Sec. 15. Composition of the Council. The Council shall be  
18 comprised of representatives from various State agencies and  
19 State universities with specific fiscal, procurement,  
20 educational, and environmental policy expertise. The  
21 Lieutenant Governor is the chair of the Council. The director  
22 or President, respectively, of each of the following State

1 agencies and State universities, or his or her designee, is a  
2 member of the Council: the Department of Commerce and Economic  
3 Opportunity, the Environmental Protection Agency, the  
4 University of Illinois; the Department of Natural Resources,  
5 ~~the Department of Natural Resources Waste Management and~~  
6 ~~Research Center~~, the Department of Central Management  
7 Services, the Governor's Office of Management and Budget, the  
8 Department of Agriculture, the Department of Transportation,  
9 the Department of Corrections, the Department of Human  
10 Services, the Department of Public Health, the State Board of  
11 Education, the Board of Higher Education, and the Capital  
12 Development Board. The Office of the Lieutenant Governor shall  
13 provide administrative support to the Council. A minimum of one  
14 staff position in the Office of the Lieutenant Governor shall  
15 be dedicated to the Green Governments Illinois program.

16 (Source: P.A. 95-657, eff. 10-10-07.)

17 Section 840. The State Finance Act is amended by changing  
18 Sections 6z-14 and 8.24 as follows:

19 (30 ILCS 105/6z-14) (from Ch. 127, par. 142z-14)

20 Sec. 6z-14. The following items of income received by the  
21 University of Illinois ~~Department of Natural Resources~~ from  
22 patents and copyrights of the Illinois Scientific Surveys shall  
23 be retained by the University of Illinois in its treasury  
24 ~~deposited into the General Revenue Fund~~: funds received in

1 connection with the retention, receipt, assignment, license,  
2 sale or transfer of interests in, rights to or income from  
3 discoveries, inventions, patents or copyrightable works. All  
4 interest earned shall be deposited in the University of  
5 Illinois Income ~~General Revenue~~ Fund. The University ~~Pursuant~~  
6 ~~to appropriation, the Department~~ may use those moneys for the  
7 purpose of ~~appropriated for that purpose for~~ patenting or  
8 copyrighting discoveries, inventions or copyrightable works or  
9 supporting other programs of the Illinois Scientific Surveys.  
10 (Source: P.A. 94-91, eff. 7-1-05.)

11 (30 ILCS 105/8.24) (from Ch. 127, par. 144.24)  
12 Sec. 8.24. One hundred percent of the revenues received by  
13 the University of Illinois ~~Department of Natural Resources~~ from  
14 the sale of publications, bulletins, circulars, maps, reports,  
15 catalogues and other data and information presented in  
16 documents shall be deposited into the University of Illinois  
17 Income ~~Natural Resources Information~~ Fund. Appropriations from  
18 the Natural Resources Information Fund shall be made to the  
19 University of Illinois ~~Department~~ for the (1) expenses  
20 connected with the production of such documents and (2)  
21 purchase of U.S. Geological Survey topographic maps and other  
22 documents. The Board of Trustees of the University of Illinois  
23 ~~of Natural Resources and Conservation~~ shall establish  
24 guidelines governing fee schedules, conditions of sale, and  
25 administration of the Natural Resources Information Fund.

1 (Source: P.A. 89-445, eff. 2-7-96.)

2 Section 845. The Illinois Pension Code is amended by  
3 changing Section 15-106 as follows:

4 (40 ILCS 5/15-106) (from Ch. 108 1/2, par. 15-106)

5 Sec. 15-106. Employer. "Employer": The University of  
6 Illinois, Southern Illinois University, Chicago State  
7 University, Eastern Illinois University, Governors State  
8 University, Illinois State University, Northeastern Illinois  
9 University, Northern Illinois University, Western Illinois  
10 University, the State Board of Higher Education, the Illinois  
11 Mathematics and Science Academy, ~~the State Geological Survey~~  
12 ~~Division of the Department of Natural Resources, the State~~  
13 ~~Natural History Survey Division of the Department of Natural~~  
14 ~~Resources, the State Water Survey Division of the Department of~~  
15 ~~Natural Resources, the Waste Management and Research Center of~~  
16 ~~the Department of Natural Resources, the University Civil~~  
17 Service Merit Board, the Board of Trustees of the State  
18 Universities Retirement System, the Illinois Community College  
19 Board, community college boards, any association of community  
20 college boards organized under Section 3-55 of the Public  
21 Community College Act, the Board of Examiners established under  
22 the Illinois Public Accounting Act, and, only during the period  
23 for which employer contributions required under Section 15-155  
24 are paid, the following organizations: the alumni

1 associations, the foundations and the athletic associations  
2 which are affiliated with the universities and colleges  
3 included in this Section as employers.

4 A department as defined in Section 14-103.04 is an employer  
5 for any person appointed by the Governor under the Civil  
6 Administrative Code of Illinois who is a participating employee  
7 as defined in Section 15-109. The Department of Central  
8 Management Services is an employer with respect to persons  
9 employed by the State Board of Higher Education in positions  
10 with the Illinois Century Network as of June 30, 2004 who  
11 remain continuously employed after that date by the Department  
12 of Central Management Services in positions with the Illinois  
13 Century Network, the Bureau of Communication and Computer  
14 Services, or, if applicable, any successor bureau.

15 The cities of Champaign and Urbana shall be considered  
16 employers, but only during the period for which contributions  
17 are required to be made under subsection (b-1) of Section  
18 15-155 and only with respect to individuals described in  
19 subsection (h) of Section 15-107.

20 (Source: P.A. 95-369, eff. 8-23-07.)

21 Section 850. The Illinois Drainage Code is amended by  
22 changing Section 12-19 as follows:

23 (70 ILCS 605/12-19) (from Ch. 42, par. 12-19)

24 Sec. 12-19. Cooperation with other public agencies.

1 Commissioners of a district shall cooperate in the exchange of  
2 information pertaining to drainage with the commissioners of  
3 other districts and with local, State and Federal governments,  
4 officers and agencies operating in fields affecting or related  
5 to drainage, including, but not restricted to, the Department  
6 of Natural Resources, the State Water Resources and Flood  
7 Control Board, the State Soil Conservation Advisory Board, the  
8 State Geological Survey of the University of Illinois ~~Division~~,  
9 and the State Water Survey of the University of Illinois  
10 ~~Division~~.

11 (Source: P.A. 89-445, eff. 2-7-96.)

12 Section 855. The Solid Waste Disposal District Act is  
13 amended by changing Section 24 as follows:

14 (70 ILCS 3105/24) (from Ch. 85, par. 1674)

15 Sec. 24. After the effective date of this Act, no district,  
16 person, firm or corporation, public or private, may establish a  
17 new solid waste disposal site or facility without first  
18 obtaining a permit from the Environmental Protection Agency  
19 under the provisions of the Environmental Protection Act.  
20 Application for such permit shall be on forms provided by the  
21 Agency and shall be accompanied by such supporting documents as  
22 the Agency shall require. Prior to issuing a permit to  
23 establish a new solid waste disposal site or facility the  
24 Agency shall review the application and supporting documents

1 and make an on-site inspection of the proposed site. The Agency  
2 may request the ~~Chief of the~~ Illinois State Geological Survey  
3 of the University of Illinois to prepare a report concerning  
4 the soil characteristics, water table, and other appropriate  
5 physical characteristics of the proposed site. If the proposed  
6 new solid waste disposal site or facility conforms to the  
7 minimum standards provided in such Act, the Agency shall issue  
8 a permit for the operation of such site or facility. If the  
9 proposed new solid waste disposal site or facility does not  
10 conform to the minimum standards provided by such Act, no  
11 permit shall be issued and the solid waste disposal site or  
12 facility shall not be constructed or operated.

13 (Source: P.A. 87-650.)

14 Section 860. The University of Illinois Exercise of  
15 Functions and Duties Law of the Civil Administrative Code of  
16 Illinois is amended by changing Section 3000-5 as follows:

17 (110 ILCS 355/3000-5) (was 110 ILCS 355/62)

18 Sec. 3000-5. Retention of duties by University of Illinois.  
19 Unless otherwise provided by law, the functions and duties  
20 formerly exercised by the State entomologist, the State  
21 laboratory of natural history, the State water survey, and the  
22 State geological survey ~~and vested in the Illinois Department~~  
23 ~~of Natural Resources~~ and the functions and duties of the Waste  
24 Management and Research Center and its Hazardous Materials

1 Laboratory as authorized by the Hazardous Waste Technology  
2 Exchange Service Act shall continue to be exercised at the  
3 University of Illinois in buildings and places provided by the  
4 trustees of the University.

5 (Source: P.A. 90-490, eff. 8-17-97; 91-239, eff. 1-1-00.)

6 Section 865. The Well Abandonment Act is amended by  
7 changing Section 1 as follows:

8 (225 ILCS 730/1) (from Ch. 96 1/2, par. 5201)

9 Sec. 1. It is the duty of the permittee of any well drilled  
10 or deepened for oil or gas, to file all geophysical logs and a  
11 well drilling report of said well in the office of the State  
12 Geological Survey ~~Division~~ of the University of Illinois  
13 ~~Department of Natural Resources~~ within 90 days after drilling  
14 ceases.

15 The well drilling report: (1) shall show the character and  
16 depth of the formations passed through or encountered in the  
17 drilling of the well, particularly showing the depth and  
18 thickness of oil-bearing strata, and gas-bearing strata, (2)  
19 shall show the position and thickness of coal beds and deposits  
20 of mineral materials of economic value, and (3) shall give the  
21 location of the hole.

22 The Department of Natural Resources shall supply to the  
23 Geological Survey a copy of each permit, showing the location  
24 of the well.



1 (Source: P.A. 89-445, eff. 2-7-96.)

2 Section 870. The Environmental Protection Act is amended by  
3 changing Section 22.2 as follows:

4 (415 ILCS 5/22.2) (from Ch. 111 1/2, par. 1022.2)

5 Sec. 22.2. Hazardous waste; fees; liability.

6 (a) There are hereby created within the State Treasury 2  
7 special funds to be known respectively as the "Hazardous Waste  
8 Fund" and the "Hazardous Waste Research Fund", constituted from  
9 the fees collected pursuant to this Section. In addition to the  
10 fees collected under this Section, the Hazardous Waste Fund  
11 shall include other moneys made available from any source for  
12 deposit into the Fund.

13 (b) (1) On and after January 1, 1989, the Agency shall  
14 collect from the owner or operator of each of the following  
15 sites a fee in the amount of:

16 (A) 9 cents per gallon or \$18.18 per cubic yard, if  
17 the hazardous waste disposal site is located off the  
18 site where such waste was produced. The maximum amount  
19 payable under this subdivision (A) with respect to the  
20 hazardous waste generated by a single generator and  
21 deposited in monofills is \$30,000 per year. If, as a  
22 result of the use of multiple monofills, waste fees in  
23 excess of the maximum are assessed with respect to a  
24 single waste generator, the generator may apply to the

1 Agency for a credit.

2 (B) 9 cents or \$18.18 per cubic yard, if the  
3 hazardous waste disposal site is located on the site  
4 where such waste was produced, provided however the  
5 maximum amount of fees payable under this paragraph (B)  
6 is \$30,000 per year for each such hazardous waste  
7 disposal site.

8 (C) If the hazardous waste disposal site is an  
9 underground injection well, \$6,000 per year if not more  
10 than 10,000,000 gallons per year are injected, \$15,000  
11 per year if more than 10,000,000 gallons but not more  
12 than 50,000,000 gallons per year are injected, and  
13 \$27,000 per year if more than 50,000,000 gallons per  
14 year are injected.

15 (D) 3 cents per gallon or \$6.06 per cubic yard of  
16 hazardous waste received for treatment at a hazardous  
17 waste treatment site, if the hazardous waste treatment  
18 site is located off the site where such waste was  
19 produced and if such hazardous waste treatment site is  
20 owned, controlled and operated by a person other than  
21 the generator of such waste. After treatment at such  
22 hazardous waste treatment site, the waste shall not be  
23 subject to any other fee imposed by this subsection  
24 (b). For purposes of this subsection (b), the term  
25 "treatment" is defined as in Section 3.505 but shall  
26 not include recycling, reclamation or reuse.

1           (2) The General Assembly shall annually appropriate to  
2 the Fund such amounts as it deems necessary to fulfill the  
3 purposes of this Act.

4           (3) The Agency shall have the authority to accept,  
5 receive, and administer on behalf of the State any moneys  
6 made available to the State from any source for the  
7 purposes of the Hazardous Waste Fund set forth in  
8 subsection (d) of this Section.

9           (4) Of the amount collected as fees provided for in  
10 this Section, the Agency shall manage the use of such funds  
11 to assure that sufficient funds are available for match  
12 towards federal expenditures for response action at sites  
13 which are listed on the National Priorities List; provided,  
14 however, that this shall not apply to additional monies  
15 appropriated to the Fund by the General Assembly, nor shall  
16 it apply in the event that the Director finds that revenues  
17 in the Hazardous Waste Fund must be used to address  
18 conditions which create or may create an immediate danger  
19 to the environment or public health or to the welfare of  
20 the people of the State of Illinois.

21           (5) Notwithstanding the other provisions of this  
22 subsection (b), sludge from a publicly-owned sewage works  
23 generated in Illinois, coal mining wastes and refuse  
24 generated in Illinois, bottom boiler ash, flyash and flue  
25 gas desulphurization sludge from public utility electric  
26 generating facilities located in Illinois, and bottom

1 boiler ash and flyash from all incinerators which process  
2 solely municipal waste shall not be subject to the fee.

3 (6) For the purposes of this subsection (b), "monofill"  
4 means a facility, or a unit at a facility, that accepts  
5 only wastes bearing the same USEPA hazardous waste  
6 identification number, or compatible wastes as determined  
7 by the Agency.

8 (c) The Agency shall establish procedures, not later than  
9 January 1, 1984, relating to the collection of the fees  
10 authorized by this Section. Such procedures shall include, but  
11 not be limited to: (1) necessary records identifying the  
12 quantities of hazardous waste received or disposed; (2) the  
13 form and submission of reports to accompany the payment of fees  
14 to the Agency; and (3) the time and manner of payment of fees  
15 to the Agency, which payments shall be not more often than  
16 quarterly.

17 (d) Beginning July 1, 1996, the Agency shall deposit all  
18 such receipts in the State Treasury to the credit of the  
19 Hazardous Waste Fund, except as provided in subsection (e) of  
20 this Section. All monies in the Hazardous Waste Fund shall be  
21 used by the Agency for the following purposes:

22 (1) Taking whatever preventive or corrective action is  
23 necessary or appropriate, in circumstances certified by  
24 the Director, including but not limited to removal or  
25 remedial action whenever there is a release or substantial  
26 threat of a release of a hazardous substance or pesticide;

1 provided, the Agency shall expend no more than \$1,000,000  
2 on any single incident without appropriation by the General  
3 Assembly.

4 (2) To meet any requirements which must be met by the  
5 State in order to obtain federal funds pursuant to the  
6 Comprehensive Environmental Response, Compensation and  
7 Liability Act of 1980, (P.L. 96-510).

8 (3) In an amount up to 30% of the amount collected as  
9 fees provided for in this Section, for use by the Agency to  
10 conduct groundwater protection activities, including  
11 providing grants to appropriate units of local government  
12 which are addressing protection of underground waters  
13 pursuant to the provisions of this Act.

14 (4) To fund the development and implementation of the  
15 model pesticide collection program under Section 19.1 of  
16 the Illinois Pesticide Act.

17 (5) To the extent the Agency has received and deposited  
18 monies in the Fund other than fees collected under  
19 subsection (b) of this Section, to pay for the cost of  
20 Agency employees for services provided in reviewing the  
21 performance of response actions pursuant to Title XVII of  
22 this Act.

23 (6) In an amount up to 15% of the fees collected  
24 annually under subsection (b) of this Section, for use by  
25 the Agency for administration of the provisions of this  
26 Section.

1 (e) The Agency shall deposit 10% of all receipts collected  
2 under subsection (b) of this Section, but not to exceed  
3 \$200,000 per year, in the State Treasury to the credit of the  
4 Hazardous Waste Research Fund established by this Act. Pursuant  
5 to appropriation, all monies in such Fund shall be used by the  
6 University of Illinois ~~Department of Natural Resources~~ for the  
7 purposes set forth in this subsection.

8 The University of Illinois ~~Department of Natural Resources~~  
9 may enter into contracts with business, industrial,  
10 university, governmental or other qualified individuals or  
11 organizations to assist in the research and development  
12 intended to recycle, reduce the volume of, separate, detoxify  
13 or reduce the hazardous properties of hazardous wastes in  
14 Illinois. Monies in the Fund may also be used by the University  
15 of Illinois ~~Department of Natural Resources~~ for technical  
16 studies, monitoring activities, and educational and research  
17 activities which are related to the protection of underground  
18 waters. Monies in the Hazardous Waste Research Fund may be used  
19 to administer the Illinois Health and Hazardous Substances  
20 Registry Act. Monies in the Hazardous Waste Research Fund shall  
21 not be used for any sanitary landfill or the acquisition or  
22 construction of any facility. This does not preclude the  
23 purchase of equipment for the purpose of public demonstration  
24 projects. The University of Illinois ~~Department of Natural~~  
25 ~~Resources~~ shall adopt guidelines for cost sharing, selecting,  
26 and administering projects under this subsection.

1           (f) Notwithstanding any other provision or rule of law, and  
2 subject only to the defenses set forth in subsection (j) of  
3 this Section, the following persons shall be liable for all  
4 costs of removal or remedial action incurred by the State of  
5 Illinois or any unit of local government as a result of a  
6 release or substantial threat of a release of a hazardous  
7 substance or pesticide:

8           (1) the owner and operator of a facility or vessel from  
9 which there is a release or substantial threat of release  
10 of a hazardous substance or pesticide;

11           (2) any person who at the time of disposal, transport,  
12 storage or treatment of a hazardous substance or pesticide  
13 owned or operated the facility or vessel used for such  
14 disposal, transport, treatment or storage from which there  
15 was a release or substantial threat of a release of any  
16 such hazardous substance or pesticide;

17           (3) any person who by contract, agreement, or otherwise  
18 has arranged with another party or entity for transport,  
19 storage, disposal or treatment of hazardous substances or  
20 pesticides owned, controlled or possessed by such person at  
21 a facility owned or operated by another party or entity  
22 from which facility there is a release or substantial  
23 threat of a release of such hazardous substances or  
24 pesticides; and

25           (4) any person who accepts or accepted any hazardous  
26 substances or pesticides for transport to disposal,

1 storage or treatment facilities or sites from which there  
2 is a release or a substantial threat of a release of a  
3 hazardous substance or pesticide.

4 Any monies received by the State of Illinois pursuant to  
5 this subsection (f) shall be deposited in the State Treasury to  
6 the credit of the Hazardous Waste Fund.

7 In accordance with the other provisions of this Section,  
8 costs of removal or remedial action incurred by a unit of local  
9 government may be recovered in an action before the Board  
10 brought by the unit of local government under subsection (i) of  
11 this Section. Any monies so recovered shall be paid to the unit  
12 of local government.

13 (g) (1) No indemnification, hold harmless, or similar  
14 agreement or conveyance shall be effective to transfer from  
15 the owner or operator of any vessel or facility or from any  
16 person who may be liable for a release or substantial  
17 threat of a release under this Section, to any other person  
18 the liability imposed under this Section. Nothing in this  
19 Section shall bar any agreement to insure, hold harmless or  
20 indemnify a party to such agreements for any liability  
21 under this Section.

22 (2) Nothing in this Section, including the provisions  
23 of paragraph (g) (1) of this Section, shall bar a cause of  
24 action that an owner or operator or any other person  
25 subject to liability under this Section, or a guarantor,  
26 has or would have, by reason of subrogation or otherwise



1           against any person.

2           (h) For purposes of this Section:

3                 (1) The term "facility" means:

4                     (A) any building, structure, installation,  
5                     equipment, pipe or pipeline including but not limited  
6                     to any pipe into a sewer or publicly owned treatment  
7                     works, well, pit, pond, lagoon, impoundment, ditch,  
8                     landfill, storage container, motor vehicle, rolling  
9                     stock, or aircraft; or

10                    (B) any site or area where a hazardous substance  
11                    has been deposited, stored, disposed of, placed, or  
12                    otherwise come to be located.

13                 (2) The term "owner or operator" means:

14                     (A) any person owning or operating a vessel or  
15                     facility;

16                     (B) in the case of an abandoned facility, any  
17                     person owning or operating the abandoned facility or  
18                     any person who owned, operated, or otherwise  
19                     controlled activities at the abandoned facility  
20                     immediately prior to such abandonment;

21                     (C) in the case of a land trust as defined in  
22                     Section 2 of the Land Trustee as Creditor Act, the  
23                     person owning the beneficial interest in the land  
24                     trust;

25                     (D) in the case of a fiduciary (other than a land  
26                     trustee), the estate, trust estate, or other interest

1 in property held in a fiduciary capacity, and not the  
2 fiduciary. For the purposes of this Section,  
3 "fiduciary" means a trustee, executor, administrator,  
4 guardian, receiver, conservator or other person  
5 holding a facility or vessel in a fiduciary capacity;

6 (E) in the case of a "financial institution",  
7 meaning the Illinois Housing Development Authority and  
8 that term as defined in Section 2 of the Illinois  
9 Banking Act, that has acquired ownership, operation,  
10 management, or control of a vessel or facility through  
11 foreclosure or under the terms of a security interest  
12 held by the financial institution or under the terms of  
13 an extension of credit made by the financial  
14 institution, the financial institution only if the  
15 financial institution takes possession of the vessel  
16 or facility and the financial institution exercises  
17 actual, direct, and continual or recurrent managerial  
18 control in the operation of the vessel or facility that  
19 causes a release or substantial threat of a release of  
20 a hazardous substance or pesticide resulting in  
21 removal or remedial action;

22 (F) In the case of an owner of residential  
23 property, the owner if the owner is a person other than  
24 an individual, or if the owner is an individual who  
25 owns more than 10 dwelling units in Illinois, or if the  
26 owner, or an agent, representative, contractor, or

1 employee of the owner, has caused, contributed to, or  
2 allowed the release or threatened release of a  
3 hazardous substance or pesticide. The term  
4 "residential property" means single family residences  
5 of one to 4 dwelling units, including accessory land,  
6 buildings, or improvements incidental to those  
7 dwellings that are exclusively used for the  
8 residential use. For purposes of this subparagraph  
9 (F), the term "individual" means a natural person, and  
10 shall not include corporations, partnerships, trusts,  
11 or other non-natural persons.

12 (G) In the case of any facility, title or control  
13 of which was conveyed due to bankruptcy, foreclosure,  
14 tax delinquency, abandonment, or similar means to a  
15 unit of State or local government, any person who  
16 owned, operated, or otherwise controlled activities at  
17 the facility immediately beforehand.

18 (H) The term "owner or operator" does not include a  
19 unit of State or local government which acquired  
20 ownership or control through bankruptcy, tax  
21 delinquency, abandonment, or other circumstances in  
22 which the government acquires title by virtue of its  
23 function as sovereign. The exclusion provided under  
24 this paragraph shall not apply to any State or local  
25 government which has caused or contributed to the  
26 release or threatened release of a hazardous substance

1 from the facility, and such a State or local government  
2 shall be subject to the provisions of this Act in the  
3 same manner and to the same extent, both procedurally  
4 and substantively, as any nongovernmental entity,  
5 including liability under Section 22.2(f).

6 (i) The costs and damages provided for in this Section may  
7 be imposed by the Board in an action brought before the Board  
8 in accordance with Title VIII of this Act, except that Section  
9 33(c) of this Act shall not apply to any such action.

10 (j) (1) There shall be no liability under this Section for  
11 a person otherwise liable who can establish by a preponderance  
12 of the evidence that the release or substantial threat of  
13 release of a hazardous substance and the damages resulting  
14 therefrom were caused solely by:

15 (A) an act of God;

16 (B) an act of war;

17 (C) an act or omission of a third party other than an  
18 employee or agent of the defendant, or other than one whose  
19 act or omission occurs in connection with a contractual  
20 relationship, existing directly or indirectly, with the  
21 defendant (except where the sole contractual arrangement  
22 arises from a published tariff and acceptance for carriage  
23 by a common carrier by rail), if the defendant establishes  
24 by a preponderance of the evidence that (i) he exercised  
25 due care with respect to the hazardous substance concerned,  
26 taking into consideration the characteristics of such

1 hazardous substance, in light of all relevant facts and  
2 circumstances, and (ii) he took precautions against  
3 foreseeable acts or omissions of any such third party and  
4 the consequences that could foreseeably result from such  
5 acts or omissions; or

6 (D) any combination of the foregoing paragraphs.

7 (2) There shall be no liability under this Section for any  
8 release permitted by State or federal law.

9 (3) There shall be no liability under this Section for  
10 damages as a result of actions taken or omitted in the course  
11 of rendering care, assistance, or advice in accordance with  
12 this Section or the National Contingency Plan pursuant to the  
13 Comprehensive Environmental Response, Compensation and  
14 Liability Act of 1980 (P.L. 96-510) or at the direction of an  
15 on-scene coordinator appointed under such plan, with respect to  
16 an incident creating a danger to public health or welfare or  
17 the environment as a result of any release of a hazardous  
18 substance or a substantial threat thereof. This subsection  
19 shall not preclude liability for damages as the result of gross  
20 negligence or intentional misconduct on the part of such  
21 person. For the purposes of the preceding sentence, reckless,  
22 willful, or wanton misconduct shall constitute gross  
23 negligence.

24 (4) There shall be no liability under this Section for any  
25 person (including, but not limited to, an owner of residential  
26 property who applies a pesticide to the residential property or

1 who has another person apply a pesticide to the residential  
2 property) for response costs or damages as the result of the  
3 storage, handling and use, or recommendation for storage,  
4 handling and use, of a pesticide consistent with:

5 (A) its directions for storage, handling and use as  
6 stated in its label or labeling;

7 (B) its warnings and cautions as stated in its label or  
8 labeling; and

9 (C) the uses for which it is registered under the  
10 Federal Insecticide, Fungicide and Rodenticide Act and the  
11 Illinois Pesticide Act.

12 (4.5) There shall be no liability under subdivision (f)(1)  
13 of this Section for response costs or damages as the result of  
14 a release of a pesticide from an agrichemical facility site if  
15 the Agency has received notice from the Department of  
16 Agriculture pursuant to Section 19.3 of the Illinois Pesticide  
17 Act, the owner or operator of the agrichemical facility is  
18 proceeding with a corrective action plan under the Agrichemical  
19 Facility Response Action Program implemented under that  
20 Section, and the Agency has provided a written endorsement of a  
21 corrective action plan.

22 (4.6) There shall be no liability under subdivision (f)(1)  
23 of this Section for response costs or damages as the result of  
24 a substantial threat of a release of a pesticide from an  
25 agrichemical facility site if the Agency has received notice  
26 from the Department of Agriculture pursuant to Section 19.3 of

1 the Illinois Pesticide Act and the owner or operator of the  
2 agrichemical facility is proceeding with a corrective action  
3 plan under the Agrichemical Facility Response Action Program  
4 implemented under that Section.

5 (5) Nothing in this subsection (j) shall affect or modify  
6 in any way the obligations or liability of any person under any  
7 other provision of this Act or State or federal law, including  
8 common law, for damages, injury, or loss resulting from a  
9 release or substantial threat of a release of any hazardous  
10 substance or for removal or remedial action or the costs of  
11 removal or remedial action of such hazardous substance.

12 (6) (A) The term "contractual relationship", for the  
13 purpose of this subsection includes, but is not limited to,  
14 land contracts, deeds or other instruments transferring title  
15 or possession, unless the real property on which the facility  
16 concerned is located was acquired by the defendant after the  
17 disposal or placement of the hazardous substance on, in, or at  
18 the facility, and one or more of the circumstances described in  
19 clause (i), (ii), or (iii) of this paragraph is also  
20 established by the defendant by a preponderance of the  
21 evidence:

22 (i) At the time the defendant acquired the facility the  
23 defendant did not know and had no reason to know that any  
24 hazardous substance which is the subject of the release or  
25 threatened release was disposed of on, in or at the  
26 facility.

1           (ii) The defendant is a government entity which  
2           acquired the facility by escheat, or through any other  
3           involuntary transfer or acquisition, or through the  
4           exercise of eminent domain authority by purchase or  
5           condemnation.

6           (iii) The defendant acquired the facility by  
7           inheritance or bequest.

8           In addition to establishing the foregoing, the defendant  
9           must establish that he has satisfied the requirements of  
10          subparagraph (C) of paragraph (1) of this subsection (j).

11          (B) To establish the defendant had no reason to know, as  
12          provided in clause (i) of subparagraph (A) of this paragraph,  
13          the defendant must have undertaken, at the time of acquisition,  
14          all appropriate inquiry into the previous ownership and uses of  
15          the property consistent with good commercial or customary  
16          practice in an effort to minimize liability. For purposes of  
17          the preceding sentence, the court shall take into account any  
18          specialized knowledge or experience on the part of the  
19          defendant, the relationship of the purchase price to the value  
20          of the property if uncontaminated, commonly known or reasonably  
21          ascertainable information about the property, the obviousness  
22          of the presence or likely presence of contamination at the  
23          property, and the ability to detect such contamination by  
24          appropriate inspection.

25          (C) Nothing in this paragraph (6) or in subparagraph (C) of  
26          paragraph (1) of this subsection shall diminish the liability



1 of any previous owner or operator of such facility who would  
2 otherwise be liable under this Act. Notwithstanding this  
3 paragraph (6), if the defendant obtained actual knowledge of  
4 the release or threatened release of a hazardous substance at  
5 such facility when the defendant owned the real property and  
6 then subsequently transferred ownership of the property to  
7 another person without disclosing such knowledge, such  
8 defendant shall be treated as liable under subsection (f) of  
9 this Section and no defense under subparagraph (C) of paragraph  
10 (1) of this subsection shall be available to such defendant.

11 (D) Nothing in this paragraph (6) shall affect the  
12 liability under this Act of a defendant who, by any act or  
13 omission, caused or contributed to the release or threatened  
14 release of a hazardous substance which is the subject of the  
15 action relating to the facility.

16 (E) (i) Except as provided in clause (ii) of this  
17 subparagraph (E), a defendant who has acquired real property  
18 shall have established a rebuttable presumption against all  
19 State claims and a conclusive presumption against all private  
20 party claims that the defendant has made all appropriate  
21 inquiry within the meaning of subdivision (6)(B) of this  
22 subsection (j) if the defendant proves that immediately prior  
23 to or at the time of the acquisition:

24 (I) the defendant obtained a Phase I Environmental  
25 Audit of the real property that meets or exceeds the  
26 requirements of this subparagraph (E), and the Phase I

1 Environmental Audit did not disclose the presence or likely  
2 presence of a release or a substantial threat of a release  
3 of a hazardous substance or pesticide at, on, to, or from  
4 the real property; or

5 (II) the defendant obtained a Phase II Environmental  
6 Audit of the real property that meets or exceeds the  
7 requirements of this subparagraph (E), and the Phase II  
8 Environmental Audit did not disclose the presence or likely  
9 presence of a release or a substantial threat of a release  
10 of a hazardous substance or pesticide at, on, to, or from  
11 the real property.

12 (ii) No presumption shall be created under clause (i) of  
13 this subparagraph (E), and a defendant shall be precluded from  
14 demonstrating that the defendant has made all appropriate  
15 inquiry within the meaning of subdivision (6)(B) of this  
16 subsection (j), if:

17 (I) the defendant fails to obtain all Environmental  
18 Audits required under this subparagraph (E) or any such  
19 Environmental Audit fails to meet or exceed the  
20 requirements of this subparagraph (E);

21 (II) a Phase I Environmental Audit discloses the  
22 presence or likely presence of a release or a substantial  
23 threat of a release of a hazardous substance or pesticide  
24 at, on, to, or from real property, and the defendant fails  
25 to obtain a Phase II Environmental Audit;

26 (III) a Phase II Environmental Audit discloses the

1 presence or likely presence of a release or a substantial  
2 threat of a release of a hazardous substance or pesticide  
3 at, on, to, or from the real property;

4 (IV) the defendant fails to maintain a written  
5 compilation and explanatory summary report of the  
6 information reviewed in the course of each Environmental  
7 Audit under this subparagraph (E); or

8 (V) there is any evidence of fraud, material  
9 concealment, or material misrepresentation by the  
10 defendant of environmental conditions or of related  
11 information discovered during the course of an  
12 Environmental Audit.

13 (iii) For purposes of this subparagraph (E), the term  
14 "environmental professional" means an individual (other than a  
15 practicing attorney) who, through academic training,  
16 occupational experience, and reputation (such as engineers,  
17 industrial hygienists, or geologists) can objectively conduct  
18 one or more aspects of an Environmental Audit and who either:

19 (I) maintains at the time of the Environmental Audit  
20 and for at least one year thereafter at least \$500,000 of  
21 environmental consultants' professional liability  
22 insurance coverage issued by an insurance company licensed  
23 to do business in Illinois; or

24 (II) is an Illinois licensed professional engineer or  
25 an Illinois licensed industrial hygienist.

26 An environmental professional may employ persons who are

1 not environmental professionals to assist in the preparation of  
2 an Environmental Audit if such persons are under the direct  
3 supervision and control of the environmental professional.

4 (iv) For purposes of this subparagraph (E), the term "real  
5 property" means any interest in any parcel of land, and  
6 includes, but is not limited to, buildings, fixtures, and  
7 improvements.

8 (v) For purposes of this subparagraph (E), the term "Phase  
9 I Environmental Audit" means an investigation of real property,  
10 conducted by environmental professionals, to discover the  
11 presence or likely presence of a release or a substantial  
12 threat of a release of a hazardous substance or pesticide at,  
13 on, to, or from real property, and whether a release or a  
14 substantial threat of a release of a hazardous substance or  
15 pesticide has occurred or may occur at, on, to, or from the  
16 real property. Until such time as the United States  
17 Environmental Protection Agency establishes standards for  
18 making appropriate inquiry into the previous ownership and uses  
19 of the facility pursuant to 42 U.S.C. Sec. 9601(35)(B)(ii), the  
20 investigation shall comply with the procedures of the American  
21 Society for Testing and Materials, including the document known  
22 as Standard E1527-97, entitled "Standard Procedures for  
23 Environmental Site Assessment: Phase 1 Environmental Site  
24 Assessment Process". Upon their adoption, the standards  
25 promulgated by USEPA pursuant to 42 U.S.C. Sec. 9601(35)(B)(ii)  
26 shall govern the performance of Phase I Environmental Audits.

1 In addition to the above requirements, the Phase I  
2 Environmental Audit shall include a review of recorded land  
3 title records for the purpose of determining whether the real  
4 property is subject to an environmental land use restriction  
5 such as a No Further Remediation Letter, Environmental Land Use  
6 Control, or Highway Authority Agreement.

7 (vi) For purposes of subparagraph (E), the term "Phase II  
8 Environmental Audit" means an investigation of real property,  
9 conducted by environmental professionals, subsequent to a  
10 Phase I Environmental Audit. If the Phase I Environmental Audit  
11 discloses the presence or likely presence of a hazardous  
12 substance or a pesticide or a release or a substantial threat  
13 of a release of a hazardous substance or pesticide:

14 (I) In or to soil, the defendant, as part of the Phase  
15 II Environmental Audit, shall perform a series of soil  
16 borings sufficient to determine whether there is a presence  
17 or likely presence of a hazardous substance or pesticide  
18 and whether there is or has been a release or a substantial  
19 threat of a release of a hazardous substance or pesticide  
20 at, on, to, or from the real property.

21 (II) In or to groundwater, the defendant, as part of  
22 the Phase II Environmental Audit, shall: review  
23 information regarding local geology, water well locations,  
24 and locations of waters of the State as may be obtained  
25 from State, federal, and local government records,  
26 including but not limited to the United States Geological

1        Survey Service, the State Geological Survey ~~Division~~ of the  
2        University of Illinois ~~Department of Natural Resources~~,  
3        and the State Water Survey ~~Division~~ of the University of  
4        Illinois ~~Department of Natural Resources~~; and perform  
5        groundwater monitoring sufficient to determine whether  
6        there is a presence or likely presence of a hazardous  
7        substance or pesticide, and whether there is or has been a  
8        release or a substantial threat of a release of a hazardous  
9        substance or pesticide at, on, to, or from the real  
10       property.

11       (III) On or to media other than soil or groundwater,  
12       the defendant, as part of the Phase II Environmental Audit,  
13       shall perform an investigation sufficient to determine  
14       whether there is a presence or likely presence of a  
15       hazardous substance or pesticide, and whether there is or  
16       has been a release or a substantial threat of a release of  
17       a hazardous substance or pesticide at, on, to, or from the  
18       real property.

19       (vii) The findings of each Environmental Audit prepared  
20       under this subparagraph (E) shall be set forth in a written  
21       audit report. Each audit report shall contain an affirmation by  
22       the defendant and by each environmental professional who  
23       prepared the Environmental Audit that the facts stated in the  
24       report are true and are made under a penalty of perjury as  
25       defined in Section 32-2 of the Criminal Code of 1961. It is  
26       perjury for any person to sign an audit report that contains a

1 false material statement that the person does not believe to be  
2 true.

3 (viii) The Agency is not required to review, approve, or  
4 certify the results of any Environmental Audit. The performance  
5 of an Environmental Audit shall in no way entitle a defendant  
6 to a presumption of Agency approval or certification of the  
7 results of the Environmental Audit.

8 The presence or absence of a disclosure document prepared  
9 under the Responsible Property Transfer Act of 1988 shall not  
10 be a defense under this Act and shall not satisfy the  
11 requirements of subdivision (6) (A) of this subsection (j).

12 (7) No person shall be liable under this Section for  
13 response costs or damages as the result of a pesticide release  
14 if the Agency has found that a pesticide release occurred based  
15 on a Health Advisory issued by the U.S. Environmental  
16 Protection Agency or an action level developed by the Agency,  
17 unless the Agency notified the manufacturer of the pesticide  
18 and provided an opportunity of not less than 30 days for the  
19 manufacturer to comment on the technical and scientific  
20 justification supporting the Health Advisory or action level.

21 (8) No person shall be liable under this Section for  
22 response costs or damages as the result of a pesticide release  
23 that occurs in the course of a farm pesticide collection  
24 program operated under Section 19.1 of the Illinois Pesticide  
25 Act, unless the release results from gross negligence or  
26 intentional misconduct.

1           (k) If any person who is liable for a release or  
2 substantial threat of release of a hazardous substance or  
3 pesticide fails without sufficient cause to provide removal or  
4 remedial action upon or in accordance with a notice and request  
5 by the Agency or upon or in accordance with any order of the  
6 Board or any court, such person may be liable to the State for  
7 punitive damages in an amount at least equal to, and not more  
8 than 3 times, the amount of any costs incurred by the State of  
9 Illinois as a result of such failure to take such removal or  
10 remedial action. The punitive damages imposed by the Board  
11 shall be in addition to any costs recovered from such person  
12 pursuant to this Section and in addition to any other penalty  
13 or relief provided by this Act or any other law.

14           Any monies received by the State pursuant to this  
15 subsection (k) shall be deposited in the Hazardous Waste Fund.

16           (1) Beginning January 1, 1988, the Agency shall annually  
17 collect a \$250 fee for each Special Waste Hauling Permit  
18 Application and, in addition, shall collect a fee of \$20 for  
19 each waste hauling vehicle identified in the annual permit  
20 application and for each vehicle which is added to the permit  
21 during the annual period. The Agency shall deposit 85% of such  
22 fees collected under this subsection in the State Treasury to  
23 the credit of the Hazardous Waste Research Fund; and shall  
24 deposit the remaining 15% of such fees collected in the State  
25 Treasury to the credit of the Environmental Protection Permit  
26 and Inspection Fund. The majority of such receipts which are



1 deposited in the Hazardous Waste Research Fund pursuant to this  
2 subsection shall be used by the University of Illinois  
3 ~~Department of Natural Resources~~ for activities which relate to  
4 the protection of underground waters. Persons engaged in the  
5 offsite transportation of hazardous waste by highway and  
6 participating in the Uniform Program under subsection (1-5) are  
7 not required to file a Special Waste Hauling Permit  
8 Application.

9 (1-5) (1) As used in this subsection:

10 "Base state" means the state selected by a transporter  
11 according to the procedures established under the Uniform  
12 Program.

13 "Base state agreement" means an agreement between  
14 participating states electing to register or permit  
15 transporters.

16 "Participating state" means a state electing to  
17 participate in the Uniform Program by entering into a base  
18 state agreement.

19 "Transporter" means a person engaged in the offsite  
20 transportation of hazardous waste by highway.

21 "Uniform application" means the uniform registration  
22 and permit application form prescribed under the Uniform  
23 Program.

24 "Uniform Program" means the Uniform State Hazardous  
25 Materials Transportation Registration and Permit Program  
26 established in the report submitted and amended pursuant to

1           49 U.S.C. Section 5119(b), as implemented by the Agency  
2           under this subsection.

3           "Vehicle" means any self-propelled motor vehicle,  
4           except a truck tractor without a trailer, designed or used  
5           for the transportation of hazardous waste subject to the  
6           hazardous waste manifesting requirements of 40 U.S.C.  
7           Section 6923(a) (3).

8           (2) Beginning July 1, 1998, the Agency shall implement  
9           the Uniform State Hazardous Materials Transportation  
10          Registration and Permit Program. On and after that date, no  
11          person shall engage in the offsite transportation of  
12          hazardous waste by highway without registering and  
13          obtaining a permit under the Uniform Program. A transporter  
14          with its principal place of business in Illinois shall  
15          register with and obtain a permit from the Agency. A  
16          transporter that designates another participating state in  
17          the Uniform Program as its base state shall likewise  
18          register with and obtain a permit from that state before  
19          transporting hazardous waste in Illinois.

20          (3) Beginning July 1, 1998, the Agency shall annually  
21          collect no more than a \$250 processing and audit fee from  
22          each transporter of hazardous waste who has filed a uniform  
23          application and, in addition, the Agency shall annually  
24          collect an apportioned vehicle registration fee of \$20. The  
25          amount of the apportioned vehicle registration fee shall be  
26          calculated consistent with the procedures established

1 under the Uniform Program.

2 All moneys received by the Agency from the collection  
3 of fees pursuant to the Uniform Program shall be deposited  
4 into the Hazardous Waste Transporter account hereby  
5 created within the Environmental Protection Permit and  
6 Inspection Fund. Moneys remaining in the account at the  
7 close of the fiscal year shall not lapse to the General  
8 Revenue Fund. The State Treasurer may receive money or  
9 other assets from any source for deposit into the account.  
10 The Agency may expend moneys from the account, upon  
11 appropriation, for the implementation of the Uniform  
12 Program, including the costs to the Agency of fee  
13 collection and administration. In addition, funds not  
14 expended for the implementation of the Uniform Program may  
15 be utilized for emergency response and cleanup activities  
16 related to hazardous waste transportation that are  
17 initiated by the Agency.

18 Whenever the amount of the Hazardous Waste Transporter  
19 account exceeds by 115% the amount annually appropriated by the  
20 General Assembly, the Agency shall credit participating  
21 transporters an amount, proportionately based on the amount of  
22 the vehicle fee paid, equal to the excess in the account, and  
23 shall determine the need to reduce the amount of the fee  
24 charged transporters in the subsequent fiscal year by the  
25 amount of the credit.

26 (4) (A) The Agency may propose and the Board shall

1 adopt rules as necessary to implement and enforce the  
2 Uniform Program. The Agency is authorized to enter into  
3 agreements with other agencies of this State as necessary  
4 to carry out administrative functions or enforcement of the  
5 Uniform Program.

6 (B) The Agency shall recognize a Uniform Program  
7 registration as valid for one year from the date a notice  
8 of registration form is issued and a permit as valid for 3  
9 years from the date issued or until a transporter fails to  
10 renew its registration, whichever occurs first.

11 (C) The Agency may inspect or examine any motor vehicle  
12 or facility operated by a transporter, including papers,  
13 books, records, documents, or other materials to determine  
14 if a transporter is complying with the Uniform Program. The  
15 Agency may also conduct investigations and audits as  
16 necessary to determine if a transporter is entitled to a  
17 permit or to make suspension or revocation determinations  
18 consistent with the standards of the Uniform Program.

19 (5) The Agency may enter into agreements with federal  
20 agencies, national repositories, or other participating  
21 states as necessary to allow for the reciprocal  
22 registration and permitting of transporters pursuant to  
23 the Uniform Program. The agreements may include procedures  
24 for determining a base state, the collection and  
25 distribution of registration fees, dispute resolution, the  
26 exchange of information for reporting and enforcement

1 purposes, and other provisions necessary to fully  
2 implement, administer, and enforce the Uniform Program.

3 (m) (Blank).

4 (n) (Blank).

5 (Source: P.A. 92-574, eff. 6-26-02; 93-152, eff. 7-10-03.)

6 Section 875. The Illinois Pesticide Act is amended by  
7 changing Section 19 as follows:

8 (415 ILCS 60/19) (from Ch. 5, par. 819)

9 Sec. 19. Interagency Committee on Pesticides. The Director  
10 is authorized to create an interagency committee on pesticides.  
11 Its purpose is to study and advise on the use of pesticides on  
12 State property. Also, its purpose is to advise any State agency  
13 in connection with quarantine programs or the protection of the  
14 public health and welfare, and to recommend needed legislation  
15 concerning pesticides.

16 1. An interagency committee on pesticides shall consist of:  
17 (1) the Director of the Department of Agriculture, (2) the  
18 Director of Natural Resources, (3) the Director of the  
19 Environmental Protection Agency, (4) the Director of the  
20 Department of Public Health, (5) the Secretary of the  
21 Department of Transportation, (6) the President ~~Chief~~ of the  
22 University of Illinois or his or her designee representing the  
23 State Natural History Survey and (7) the Dean of the College of  
24 Agriculture, University of Illinois. Each member of the

1 committee may designate some person in his department to serve  
2 on the committee in his stead. Other State agencies may, at the  
3 discretion of the Director, be asked to serve on the  
4 interagency committee on pesticides. The Director of the  
5 Department of Agriculture shall be chairman of this committee.

6 2. The interagency committee shall: (1) Review the current  
7 status of the sales and use of pesticides within the State of  
8 Illinois. (2) Review pesticide programs to be sponsored or  
9 directed by a governmental agency. (3) Consider the problems  
10 arising from pesticide use with particular emphasis on the  
11 possible adverse effects on human health, livestock, crops,  
12 fish, and wildlife, business, industry, agriculture, or the  
13 general public. (4) Recommend legislation to the Governor, if  
14 appropriate, which will prohibit the irresponsible use of  
15 pesticides. (5) Review rules and regulations pertaining to the  
16 regulation or prohibition of the sale, use or application of  
17 pesticides and labeling of pesticides for approval prior to  
18 promulgation and adoption. (6) Contact various experts and lay  
19 groups, such as the Illinois Pesticide Control Committee, to  
20 obtain their views and cooperation. (7) Advise on and approve  
21 of all programs involving the use of pesticides on State owned  
22 property, state controlled property, or administered by State  
23 agencies. This shall not be construed to include research  
24 programs, or the generally accepted and approved practices  
25 essential to good farm and institutional management on the  
26 premises of the various State facilities.

1           3. Members of this committee shall receive no compensation  
2 for their services as members of this committee other than that  
3 provided by law for their respective positions with the State  
4 of Illinois. All necessary expenses for travel of the committee  
5 members shall be paid out of regular appropriations of their  
6 respective agencies.

7           4. The committee shall meet at least once each quarter of  
8 the calendar year, and may hold additional meetings upon the  
9 call of the chairman. Four members shall constitute a quorum.

10          5. The committee shall make a detailed report of its  
11 findings and recommendations to the Governor of Illinois prior  
12 to each General Assembly Session.

13          6. The Interagency Committee on Pesticides shall, at a  
14 minimum, annually, during the spring, conduct a statewide  
15 public education campaign and agriculture chemical safety  
16 campaign to inform the public about pesticide products, uses  
17 and safe disposal techniques. A toll-free hot line number shall  
18 be made available for the public to report misuse cases.

19          The Committee shall include in its educational program  
20 information and advice about the effects of various pesticides  
21 and application techniques upon the groundwater and drinking  
22 water of the State.

23          7. The Interagency Committee on Pesticides shall conduct a  
24 special study of the effects of chemigation and other  
25 agricultural applications of pesticides upon the groundwater  
26 of this State. The results of such study shall be reported to

1 the General Assembly by March 1, 1989. The members of the  
2 Committee may utilize the technical and clerical resources of  
3 their respective departments and agencies as necessary or  
4 useful in the conduct of the study.

5 8. In consultation with the Interagency Committee, the  
6 Department shall develop, and the Interagency Committee shall  
7 approve, procedures, methods, and guidelines for addressing  
8 agrichemical pesticide contamination at agrichemical  
9 facilities in Illinois. In developing those procedures,  
10 methods, and guidelines, the following shall be considered and  
11 addressed: (1) an evaluation and assessment of site conditions  
12 and operational practices at agrichemical facilities where  
13 agricultural pesticides are handled; (2) what constitutes  
14 pesticide contamination; (3) cost effective procedures for  
15 site assessments and technologies for remedial action; and (4)  
16 achievement of adequate protection of public health and the  
17 environment from such actual or potential hazards. In  
18 consultation with the Interagency Committee, the Department  
19 shall develop, and the Interagency Committee shall approve,  
20 guidelines and recommendations regarding long term financial  
21 resources which may be necessary to remediate pesticide  
22 contamination at agrichemical facilities in Illinois. The  
23 Department, in consultation with the Interagency Committee,  
24 shall present a report on those guidelines and recommendations  
25 to the Governor and the General Assembly on or before January  
26 1, 1993. The Department and the Interagency Committee shall



1 consult with the Illinois Pesticide Control Committee and other  
2 appropriate parties during this development process.

3 9. As part of the consideration of cost effective  
4 technologies pursuant to subsection 8 of this Section, the  
5 Department may, upon request, provide a written authorization  
6 to the owner or operator of an agrichemical facility for land  
7 application of agrichemical contaminated soils at agronomic  
8 rates. As used in this Section, "agrichemical" means pesticides  
9 or commercial fertilizers, at an agrichemical facility, in  
10 transit from an agrichemical facility to the field of  
11 application, or at the field of application. The written  
12 authorization may also provide for use of groundwater  
13 contaminated by the release of an agrichemical, provided that  
14 the groundwater is not also contaminated due to the release of  
15 a petroleum product or hazardous substance other than an  
16 agrichemical. The uses of agrichemical contaminated  
17 groundwater authorized by the Department shall be limited to  
18 supervised application or irrigation onto farmland and  
19 blending as make-up water in the preparation of agrichemical  
20 spray solutions that are to be applied to farmland. In either  
21 case, the use of the agrichemical contaminated water shall not  
22 cause (i) the total annual application amounts of a pesticide  
23 to exceed the respective pesticide label application rate on  
24 any authorized sites or (ii) the total annual application  
25 amounts of a fertilizer to exceed the generally accepted annual  
26 application rate on any authorized sites. All authorizations

1 shall prescribe appropriate operational control practices to  
2 protect the site of application and shall identify each site or  
3 sites where land application or irrigation take place. Where  
4 agrichemical contaminated groundwater is used on farmland, the  
5 prescribed practices shall be designed to prevent off-site  
6 runoff or conveyance through underground tile systems. The  
7 Department shall periodically advise the Interagency Committee  
8 regarding the issuance of such authorizations and the status of  
9 compliance at the application sites.

10 (Source: P.A. 92-113, eff. 7-20-01.)

11 Section 880. The Toxic Pollution Prevention Act is amended  
12 by changing Section 5 as follows:

13 (415 ILCS 85/5) (from Ch. 111 1/2, par. 7955)

14 Sec. 5. Toxic Pollution Prevention Assistance Program.  
15 There is hereby established a Toxic Pollution Prevention  
16 Assistance Program at the Waste Management and Research Center.  
17 The Center may establish cooperative programs with public and  
18 private colleges and universities designed to augment the  
19 implementation of this Section. The Center may establish fees,  
20 tuition, or other financial charges for participation in the  
21 Assistance Program. These monies shall be deposited in the  
22 Toxic Pollution Prevention Fund established in Section 7 of  
23 this Act. Through the Assistance Program, the Center:

24 (1) Shall provide general information about and actively

1 publicize the advantages of and developments in toxic pollution  
2 prevention.

3 (2) May establish courses, seminars, conferences and other  
4 events, and reports, updates, guides and other publications and  
5 other means of providing technical information for industries,  
6 local governments and citizens concerning toxic pollution  
7 prevention strategies, and may, as appropriate, work in  
8 cooperation with the Agency.

9 (3) Shall engage in research on toxic pollution prevention  
10 methods. Such research shall include assessments of the impact  
11 of adopting toxic pollution prevention methods on the  
12 environment, the public health, and worker exposure, and  
13 assessments of the impact on profitability and employment  
14 within affected industries.

15 (4) Shall provide on-site technical consulting, to the  
16 extent practicable, to help facilities to identify  
17 opportunities for toxic pollution prevention, and to develop  
18 toxic pollution prevention plans. To be eligible for such  
19 consulting, the owner or operator of a facility must agree to  
20 allow information regarding the results of such consulting to  
21 be shared with the public, provided that the identity of the  
22 facility shall be made available only with its consent, and  
23 trade secret information shall remain protected.

24 (5) May sponsor pilot projects in cooperation with the  
25 Agency, or an institute of higher education to develop and  
26 demonstrate innovative technologies and methods for toxic

1 pollution prevention. The results of all such projects shall be  
2 available for use by the public, but trade secret information  
3 shall remain protected.

4 (6) May award grants for activities that further the  
5 purposes of this Act, including but not limited to the  
6 following:

7 (A) grants to not-for-profit organizations to  
8 establish free or low-cost technical assistance or  
9 educational programs to supplement the toxic pollution  
10 prevention activities of the Center;

11 (B) grants to assist trade associations, business  
12 organizations, labor organizations and educational  
13 institutions in developing training materials to foster  
14 toxic pollution prevention; and

15 (C) grants to assist industry, business organizations,  
16 labor organizations, education institutions and industrial  
17 hygienists to identify, evaluate and implement toxic  
18 pollution prevention measures and alternatives through  
19 audits, plans and programs.

20 The Center may establish criteria and terms for such  
21 grants, including a requirement that a grantee provide  
22 matching funds. Grant money awarded under this Section may  
23 not be spent for capital improvements or equipment.

24 In determining whether to award a grant, the Center  
25 ~~Director~~ shall consider at least the following:

26 (i) the potential of the project to prevent

1 pollution;

2 (ii) the likelihood that the project will develop  
3 techniques or processes that will minimize the  
4 transfer of pollution from one environmental medium to  
5 another;

6 (iii) the extent to which information to be  
7 developed through the project will be applicable to  
8 other persons in the State; and

9 (iv) the willingness of the grant applicant to  
10 assist the Center in disseminating information about  
11 the pollution prevention methods to be developed  
12 through the project.

13 (7) Shall establish and operate a State information  
14 clearinghouse that assembles, catalogues and disseminates  
15 information about toxic pollution prevention and available  
16 consultant services. Such clearinghouse shall include a  
17 computer database containing information on managerial,  
18 technical and operational approaches to achieving toxic  
19 pollution prevention. The computer database must be maintained  
20 on a system designed to enable businesses, governmental  
21 agencies and the general public readily to obtain information  
22 specific to production technologies, materials, operations and  
23 products. A business shall not be required to submit to the  
24 clearinghouse any information that is a trade secret.

25 (8) May contract with an established institution of higher  
26 education to assist the Center in carrying out the provisions

1 of this Section. The assistance provided by such an institution  
2 may include, but need not be limited to:

3 (A) engineering field internships to assist industries  
4 in identifying toxic pollution prevention opportunities;

5 (B) development of a toxic pollution prevention  
6 curriculum for students and faculty; and

7 (C) applied toxic pollution prevention and recycling  
8 research.

9 (9) Shall emphasize assistance to businesses that have  
10 inadequate technical and financial resources to obtain  
11 information and to assess and implement toxic pollution  
12 prevention methods.

13 (10) Shall publish a biannual report on its toxic pollution  
14 prevention activities, achievements, identified problems and  
15 future goals.

16 (Source: P.A. 90-490, eff. 8-17-97.)

17 Section 885. The Illinois Low-Level Radioactive Waste  
18 Management Act is amended by changing Section 3 as follows:

19 (420 ILCS 20/3) (from Ch. 111 1/2, par. 241-3)

20 Sec. 3. Definitions.

21 (a) "Broker" means any person who takes possession of  
22 low-level waste for purposes of consolidation and shipment.

23 (b) "Compact" means the Central Midwest Interstate  
24 Low-Level Radioactive Waste Compact.

1           (c) "Decommissioning" means the measures taken at the end  
2 of a facility's operating life to assure the continued  
3 protection of the public from any residual radioactivity or  
4 other potential hazards present at a facility.

5           (d) "Department" means the Department of Nuclear Safety.

6           (e) "Director" means the Director of the Department of  
7 Nuclear Safety.

8           (f) "Disposal" means the isolation of waste from the  
9 biosphere in a permanent facility designed for that purpose.

10          (g) "Facility" means a parcel of land or site, together  
11 with structures, equipment and improvements on or appurtenant  
12 to the land or site, which is used or is being developed for  
13 the treatment, storage or disposal of low-level radioactive  
14 waste. "Facility" does not include lands, sites, structures or  
15 equipment used by a generator in the generation of low-level  
16 radioactive wastes.

17          (h) "Generator" means any person who produces or possesses  
18 low-level radioactive waste in the course of or incident to  
19 manufacturing, power generation, processing, medical diagnosis  
20 and treatment, research, education or other activity.

21          (i) "Hazardous waste" means a waste, or combination of  
22 wastes, which because of its quantity, concentration, or  
23 physical, chemical, or infectious characteristics may cause or  
24 significantly contribute to an increase in mortality or an  
25 increase in serious, irreversible, or incapacitating  
26 reversible, illness; or pose a substantial present or potential

1 hazard to human health or the environment when improperly  
2 treated, stored, transported, or disposed of, or otherwise  
3 managed, and which has been identified, by characteristics or  
4 listing, as hazardous under Section 3001 of the Resource  
5 Conservation and Recovery Act of 1976, P.L. 94-580 or under  
6 regulations of the Pollution Control Board.

7 (j) "High-level radioactive waste" means:

8 (1) the highly radioactive material resulting from the  
9 reprocessing of spent nuclear fuel including liquid waste  
10 produced directly in reprocessing and any solid material  
11 derived from the liquid waste that contains fission  
12 products in sufficient concentrations; and

13 (2) the highly radioactive material that the Nuclear  
14 Regulatory Commission has determined, on the effective  
15 date of this Amendatory Act of 1988, to be high-level  
16 radioactive waste requiring permanent isolation.

17 (k) "Low-level radioactive waste" or "waste" means  
18 radioactive waste not classified as high-level radioactive  
19 waste, transuranic waste, spent nuclear fuel or byproduct  
20 material as defined in Section 11e(2) of the Atomic Energy Act  
21 of 1954 (42 U.S.C. 2014).

22 (l) "Mixed waste" means waste that is both "hazardous  
23 waste" and "low-level radioactive waste" as defined in this  
24 Act.

25 (m) "Person" means an individual, corporation, business  
26 enterprise or other legal entity either public or private and



1 any legal successor, representative, agent or agency of that  
2 individual, corporation, business enterprise, or legal entity.

3 (n) "Post-closure care" means the continued monitoring of  
4 the regional disposal facility after closure for the purposes  
5 of detecting a need for maintenance, ensuring environmental  
6 safety, and determining compliance with applicable licensure  
7 and regulatory requirements, and includes undertaking any  
8 remedial actions necessary to protect public health and the  
9 environment from radioactive releases from the facility.

10 (o) "Regional disposal facility" or "disposal facility"  
11 means the facility established by the State of Illinois under  
12 this Act for disposal away from the point of generation of  
13 waste generated in the region of the Compact.

14 (p) "Release" means any spilling, leaking, pumping,  
15 pouring, emitting, emptying, discharging, injecting, escaping,  
16 leaching, dumping or disposing into the environment of  
17 low-level radioactive waste.

18 (q) "Remedial action" means those actions taken in the  
19 event of a release or threatened release of low-level  
20 radioactive waste into the environment, to prevent or minimize  
21 the release of the waste so that it does not migrate to cause  
22 substantial danger to present or future public health or  
23 welfare or the environment. The term includes, but is not  
24 limited to, actions at the location of the release such as  
25 storage, confinement, perimeter protection using dikes,  
26 trenches or ditches, clay cover, neutralization, cleanup of

1 released low-level radioactive wastes, recycling or reuse,  
2 dredging or excavations, repair or replacement of leaking  
3 containers, collection of leachate and runoff, onsite  
4 treatment or incineration, provision of alternative water  
5 supplies and any monitoring reasonably required to assure that  
6 these actions protect human health and the environment.

7 (q-5) "Scientific Surveys" means, collectively, the State  
8 Geological Survey ~~Division~~ and the State Water Survey ~~Division~~  
9 of the University of Illinois ~~Department of Natural Resources~~.

10 (r) "Shallow land burial" means a land disposal facility in  
11 which radioactive waste is disposed of in or within the upper  
12 30 meters of the earth's surface. However, this definition  
13 shall not include an enclosed, engineered, structurally  
14 re-enforced and solidified bunker that extends below the  
15 earth's surface.

16 (s) "Storage" means the temporary holding of waste for  
17 treatment or disposal for a period determined by Department  
18 regulations.

19 (t) "Treatment" means any method, technique or process,  
20 including storage for radioactive decay, designed to change the  
21 physical, chemical or biological characteristics or  
22 composition of any waste in order to render the waste safer for  
23 transport, storage or disposal, amenable to recovery,  
24 convertible to another usable material or reduced in volume.

25 (u) "Waste management" means the storage, transportation,  
26 treatment or disposal of waste.

1 (Source: P.A. 90-29, eff. 6-26-97.)

2 Section 890. The Wildlife Code is amended by changing  
3 Section 1.3 as follows:

4 (520 ILCS 5/1.3)

5 Sec. 1.3. The Department shall have the authority to manage  
6 wildlife and regulate the taking of wildlife for the purposes  
7 of providing public recreation and controlling wildlife  
8 populations. The seasons during which wildlife may be taken,  
9 the methods for taking wildlife, the daily bag limits, and the  
10 possession limits shall be established by the Department  
11 through administrative rule, but the Department may not provide  
12 for a longer season, a larger daily bag limit, or a larger  
13 possession limit than is provided in this Code.

14 The Natural Resources Advisory Board may also recommend to  
15 the Director of Natural Resources any reductions or increases  
16 of seasons and bag or possession limits or the closure of any  
17 season when research and inventory data indicate the need for  
18 such changes.

19 The Department is authorized to establish seasons for the  
20 taking of migratory birds within the dates established annually  
21 by Proclamation of the Secretary, United States Department of  
22 the Interior, known as the "Rules and Regulations for Migratory  
23 Bird Hunting" (50 CFR 20 et seq.). When the biological balance  
24 of any species is affected, the Director may with the approval

1 of the Conservation Advisory Board, by administrative rule,  
2 lengthen, shorten or close the season during which waterfowl  
3 may be taken within the federal limitations prescribed. If the  
4 Department does not adopt an administrative rule establishing a  
5 season, then the season shall be as set forth in the current  
6 "Rules and Regulations for Migratory Bird Hunting". The  
7 Department shall advise the public by reasonable means of the  
8 dates of the various seasons.

9 The Department may utilize the services of the staff of the  
10 Illinois State Natural History Survey of the University of  
11 Illinois ~~Division in the Department of Natural Resources~~ for  
12 making investigations as to the population status of the  
13 various species of wildlife.

14 Employees or agents of any state, federal, or municipal  
15 government or body when engaged in investigational work and law  
16 enforcement, may with prior approval of the Director, be  
17 exempted from the provisions of this Act.

18 (Source: P.A. 89-445, eff. 2-7-96; 90-435, eff. 1-1-98.)

19 Section 895. The Rivers, Lakes, and Streams Act is amended  
20 by changing Section 18g as follows:

21 (615 ILCS 5/18g) (from Ch. 19, par. 65g)

22 Sec. 18g. (a) The Department of Natural Resources shall  
23 define the 100-year floodway within metropolitan counties  
24 located in the area served by the Northeastern Illinois

1 Planning Commission, except for the part of that area which is  
2 within any city with a population exceeding 1,500,000. In  
3 defining the 100-year floodway, the Department may rely on  
4 published data and maps which have been prepared by the  
5 Department itself, by the Illinois State Water Survey of the  
6 University of Illinois, by federal, State or local governmental  
7 agencies, or by any other private or public source which it  
8 determines to be reliable and appropriate.

9 (b) The Department may issue permits for construction that  
10 is an appropriate use of the designated 100-year floodway in  
11 such metropolitan counties. If a unit of local government has  
12 adopted an ordinance that establishes minimum standards for  
13 appropriate use of the floodway that are at least as  
14 restrictive as those established by the Department and this  
15 Section, and the unit of local government has adequate staff to  
16 enforce the ordinance, the Department may delegate to such unit  
17 of local government the authority to issue permits for  
18 construction that is an appropriate use of the floodway within  
19 its jurisdiction.

20 (c) No person may engage in any new construction within the  
21 100-year floodway as designated by the Department in such  
22 metropolitan counties, unless such construction relates to an  
23 appropriate use of the floodway. No unit of local government,  
24 including home rule units, in such metropolitan counties may  
25 issue any building permit or other apparent authorization for  
26 any prohibited new construction within the 100-year floodway.

1 (d) For the purpose of this Section:

2 (1) "100-year floodway" means the channel and that  
3 portion of the floodplain adjacent to a stream or  
4 watercourse which is needed to store and convey the  
5 100-year frequency flood discharge without a significant  
6 increase in stage.

7 (2) "New construction" means the construction of any  
8 new building or structure or the placement of any fill or  
9 material, but does not include the repair, remodeling or  
10 maintenance of buildings or structures in existence on the  
11 effective date of this amendatory Act of 1987.

12 (3) "Appropriate use of the floodway" means use for (i)  
13 flood control structures, dikes, dams and other public  
14 works or private improvements relating to the control of  
15 drainage, flooding or erosion; (ii) structures or  
16 facilities relating to the use of, or requiring access to,  
17 the water or shoreline, including pumping and treatment  
18 facilities, and facilities and improvements related to  
19 recreational boats, commercial shipping and other  
20 functionally dependent uses; and (iii) any other purposes  
21 which the Department determines, by rule, to be appropriate  
22 to the 100-year floodway, and the periodic inundation of  
23 which will not pose a danger to the general health and  
24 welfare of the user, or require the expenditure of public  
25 funds or the provision of public resources or disaster  
26 relief services. Appropriate use of the floodway does not

1 include construction of a new building unless such building  
2 is a garage, storage shed or other structure accessory to  
3 an existing building and such building does not increase  
4 flood stages.

5 (4) "Person" includes natural persons, corporations,  
6 associations, governmental entities, and all other legal  
7 entities.

8 (e) All construction undertaken on a designated 100-year  
9 floodway in such metropolitan counties, without benefit of a  
10 permit from the Department of Natural Resources, shall be  
11 unlawful and the Department or any affected unit of local  
12 government may, in its discretion, proceed to obtain injunctive  
13 relief for abatement or removal of such unlawful construction.  
14 The Department, in its discretion, may make such investigations  
15 and conduct such hearings and adopt such rules as may be  
16 necessary to the performance of its duties under this Section.

17 (f) This Section does not limit any power granted to the  
18 Department by any other Act.

19 (g) This Section does not limit the concurrent exercise by  
20 any unit of local government of any power consistent herewith.

21 (h) This Section does not apply to any city with a  
22 population exceeding 1,500,000.

23 (Source: P.A. 89-445, eff. 2-7-96.)

24 Section 998. The State Finance Act is amended by adding  
25 Section 80 as follows:

1 (30 ILCS 105/80 new)

2 Sec. 80. Transfer to the University of Illinois Income  
3 Fund. Immediately upon the effective date of this Section, the  
4 State Comptroller shall direct and the State Treasurer shall  
5 transfer \$15,826,499 from the General Revenue Fund to the  
6 University of Illinois Income Fund.

7 Section 999. Effective date. This Section and Section 998  
8 take effect on July 1, 2008. The other provisions of this Act  
9 take effect on July 1, 2008 or on the date the transfer from  
10 the General Revenue Fund to the University of Illinois Income  
11 Fund is made as required by Section 80 of the State Finance  
12 Act, whichever is later.