

1 AN ACT concerning State government.

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

4 Section 1. Short title. This Act may be cited as the Public  
5 Private Agreements for the Illiana Expressway Act.

6 Section 5. Legislative findings.

7 (a) The State of Illinois and the State of Indiana are  
8 engaged in collaborative planning efforts to build a new  
9 interstate highway connecting Interstate Highway 55 in  
10 northeastern Illinois to Interstate Highway 65 in northwestern  
11 Indiana to serve the public at large.

12 (b) The Illiana Expressway will promote development and  
13 investment in the State of Illinois and serve as a critical  
14 transportation route in the region.

15 (c) Public private agreements between the State of Illinois  
16 and one or more private entities to develop, finance,  
17 construct, manage, or operate the Illiana Expressway have the  
18 potential of maximizing value and benefit to the People of the  
19 State of Illinois and the public at large.

20 (d) Public private agreements may enable the Illiana  
21 Expressway to be developed, financed, constructed, managed, or  
22 operated in an entrepreneurial and business-like manner.

23 (e) In the event the State of Illinois enters into one or

1 more public private agreements to develop, finance, construct,  
2 manage, or operate the Illiana Expressway, the private parties  
3 to the agreements should be accountable to the People of  
4 Illinois through a comprehensive system of oversight,  
5 regulation, auditing, and reporting.

6 (f) It is the intent of this Act to use Illinois design  
7 professionals, construction companies, and workers to the  
8 greatest extent permitted by law by offering them the right to  
9 compete for this work.

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

11 "Agreement" means a public private agreement.

12 "Contractor" means a person that has been selected to enter  
13 or has entered into a public private agreement with the  
14 Department on behalf of the State for the development,  
15 financing, construction, management, or operation of the  
16 Illiana Expressway pursuant to this Act.

17 "Department" means the Illinois Department of  
18 Transportation.

19 "Illiana Expressway" means the fully access-controlled  
20 interstate highway connecting Interstate Highway 55 in  
21 northeastern Illinois to Interstate Highway 65 in northwestern  
22 Indiana, which may be operated as a toll or non-toll facility.

23 "Metropolitan planning organization" means a metropolitan  
24 planning organization designated under 23 U.S.C. Section 134.

25 "Offeror" means a person that responds to a request for

1 proposals under this Act.

2 "Person" means any individual, firm, association, joint  
3 venture, partnership, estate, trust, syndicate, fiduciary,  
4 corporation, or any other legal entity, group, or combination  
5 thereof.

6 "Public private agreement" means an agreement or contract  
7 between the Department on behalf of the State and all  
8 schedules, exhibits, and attachments thereto, entered into  
9 pursuant to a competitive request for proposals process  
10 governed by the Illinois Procurement Code and rules adopted  
11 under that Code and this Act, for the development, financing,  
12 construction, management, or operation of the Illiana  
13 Expressway pursuant to this Act.

14 "Revenues" means all revenues including but not limited to  
15 income; user fees; earnings; interest; lease payments;  
16 allocations; moneys from the federal government, the State, and  
17 units of local government, including but not limited to  
18 federal, State, and local appropriations, grants, loans, lines  
19 of credit, and credit guarantees; bond proceeds; equity  
20 investments; service payments; or other receipts arising out of  
21 or in connection with the financing, development,  
22 construction, management, or operation of the Illiana  
23 Expressway.

24 "State" means the State of Illinois.

25 "Secretary" means the Secretary of the Illinois Department  
26 of Transportation.

1 "Unit of local government" has the meaning ascribed to that  
2 term in Article VII, Section 1 of the Constitution of the State  
3 of Illinois, and, for purposes of this Act, includes school  
4 districts.

5 "User fees" means the tolls, rates, fees, or other charges  
6 imposed by the State or the contractor for use of all or part  
7 of the Illiana Expressway.

8 Section 15. Public private agreement authorized.

9 (a) Notwithstanding any provision of law to the contrary,  
10 the Department on behalf of the State may, pursuant to a  
11 competitive request for proposals process governed by the  
12 Illinois Procurement Code and rules adopted under that Code and  
13 this Act, enter into one or more public private agreements with  
14 one or more contractors to develop, finance, construct, manage,  
15 or operate the Illiana Expressway on behalf of the State, and  
16 further pursuant to which the contractors may receive certain  
17 revenues including user fees in consideration of the payment of  
18 moneys to the State for that right.

19 (b) Before taking any action in connection with the  
20 development, financing, maintenance, or operation of the  
21 Illiana Expressway that is not authorized by an interim  
22 agreement under Section 30 of this Act, a contractor shall  
23 enter into a public private agreement.

24 (c) The term of a public private agreement, including all  
25 extensions, shall be no more than 99 years.

1           (d) The term of a public private agreement may be extended  
2 but only if the extension is specifically authorized by the  
3 General Assembly by law.

4           Section 17. Procurement; prequalification. The Department  
5 may establish a process for prequalification of offerors. If  
6 the Department does create such a process, it shall: (i)  
7 provide a public notice of the prequalification at least 30  
8 days prior to the date on which applications are due; (ii) set  
9 forth requirements and evaluation criteria in order to become  
10 prequalified; (iii) determine which offerors that have  
11 submitted prequalification applications, if any, meet the  
12 requirements and evaluation criteria; and (iv) allow only those  
13 offerors that have been prequalified to respond to the request  
14 for proposals.

15           Section 20. Procurement; request for proposals process.

16           (a) Notwithstanding any provision of law to the contrary,  
17 the Department on behalf of the State shall select a contractor  
18 through a competitive request for proposals process governed by  
19 the Illinois Procurement Code and rules adopted under that Code  
20 and this Act.

21           (b) The competitive request for proposals process shall, at  
22 a minimum, solicit statements of qualification and proposals  
23 from offerors.

24           (c) The competitive request for proposals process shall, at

1 a minimum, take into account the following criteria:

2 (1) The offeror's plans for the Illiana Expressway  
3 project;

4 (2) The offeror's current and past business practices;

5 (3) The offeror's poor or inadequate past performance  
6 in developing, financing, constructing, managing, or  
7 operating highways or other public assets;

8 (4) The offeror's ability to meet and past performance  
9 in meeting or exhausting good faith efforts to meet the  
10 utilization goals for business enterprises established in  
11 the Business Enterprise for Minorities, Females, and  
12 Persons with Disabilities Act;

13 (5) The offeror's ability to comply with and past  
14 performance in complying with Section 2-105 of the Illinois  
15 Human Rights Act; and

16 (6) The offeror's plans to comply with the Business  
17 Enterprise for Minorities, Females, and Persons with  
18 Disabilities Act and Section 2-105 of the Illinois Human  
19 Rights Act.

20 (d) The Department shall retain the services of an advisor  
21 or advisors with significant experience in the development,  
22 financing, construction, management, or operation of public  
23 assets to assist in the preparation of the request for  
24 proposals.

25 (e) The Department shall not include terms in the request  
26 for proposals that provide an advantage, whether directly or

1 indirectly, to any contractor presently providing goods,  
2 services, or equipment to the Department.

3 (f) The Department shall select at least 2 offerors as  
4 finalists. The Department shall submit the offerors'  
5 statements of qualification and proposals to the Commission on  
6 Government Forecasting and Accountability and the Procurement  
7 Policy Board, which shall, within 30 days of the submission,  
8 complete a review of the statements of qualification and  
9 proposals and, jointly or separately, report on, at a minimum,  
10 the satisfaction of the criteria contained in the request for  
11 proposals, the qualifications of the offerors, and the value of  
12 the proposals to the State. The Department shall not select an  
13 offeror as the contractor for the Illiana Expressway project  
14 until it has received and considered the findings of the  
15 Commission on Government Forecasting and Accountability and  
16 the Procurement Policy Board as set forth in their respective  
17 reports.

18 (g) Before awarding a public private agreement to an  
19 offeror, the Department shall schedule and hold a public  
20 hearing or hearings on the proposed public private agreement  
21 and publish notice of the hearing or hearings at least 7 days  
22 before the hearing and in accordance with Section 4-219 of the  
23 Illinois Highway Code. The notice must include the following:

24 (1) the date, time, and place of the hearing and the  
25 address of the Department;

26 (2) the subject matter of the hearing;

1           (3) a description of the agreement that may be awarded;  
2           and

3           (4) the recommendation that has been made to select an  
4           offeror as the contractor for the Illiana Expressway  
5           project.

6           At the hearing, the Department shall allow the public to be  
7           heard on the subject of the hearing.

8           (h) After the procedures required in this Section have been  
9           completed, the Department shall make a determination as to  
10          whether the offeror should be designated as the contractor for  
11          the Illiana Expressway project and shall submit the decision to  
12          the Governor and to the Governor's Office of Management and  
13          Budget. After review of the Department's determination, the  
14          Governor may accept or reject the determination. If the  
15          Governor accepts the determination of the Department, the  
16          Governor shall designate the offeror for the Illiana Expressway  
17          project.

18          Section 25. Provisions of the public private agreement.

19          (a) The public private agreement shall include all of the  
20          following:

21                 (1) The term of the public private agreement that is  
22                 consistent with Section 15 of this Act;

23                 (2) The powers, duties, responsibilities, obligations,  
24                 and functions of the Department and the contractor;

25                 (3) Compensation or payments to the Department;



1 (4) Compensation or payments to the contractor;

2 (5) A provision specifying that the Department:

3 (A) has ready access to information regarding the  
4 contractor's powers, duties, responsibilities,  
5 obligations, and functions under the public private  
6 agreement;

7 (B) has the right to demand and receive information  
8 from the contractor concerning any aspect of the  
9 contractor's powers, duties, responsibilities,  
10 obligations, and functions under the public private  
11 agreement; and

12 (C) has the authority to direct or countermand  
13 decisions by the contractor at any time;

14 (6) A provision imposing an affirmative duty on the  
15 contractor to provide the Department with any information  
16 the contractor reasonably believes the Department would  
17 want to know or would need to know to enable the Department  
18 to exercise its powers, carry out its duties,  
19 responsibilities, and obligations, and perform its  
20 functions under this Act or the public private agreement or  
21 as otherwise required by law;

22 (7) A provision requiring the contractor to provide the  
23 Department with advance notice of any decision that bears  
24 significantly on the public interest so the Department has  
25 a reasonable opportunity to evaluate and countermand that  
26 decision pursuant to this Section;

1           (8) A requirement that the Department monitor and  
2           oversee the contractor's practices and take action that the  
3           Department considers appropriate to ensure that the  
4           contractor is in compliance with the terms of the public  
5           private agreement;

6           (9) The authority of the Department to enter into  
7           contracts with third parties pursuant to Section 50 of this  
8           Act;

9           (10) A provision governing the contractor's authority  
10          to negotiate and execute subcontracts with third parties;

11          (10.5) A provision stating that, in the event the  
12          contractor finds it necessary, proper, or desirable to  
13          enter into subcontracts with one or more design-build  
14          entities, then it must follow a selection process that is,  
15          to the greatest extent possible, identical to the selection  
16          process contained in the Design-Build Procurement Act;

17          (11) The authority of the contractor to impose user  
18          fees and the amounts of those fees, including the authority  
19          of the contractor to use congestion pricing, pursuant to  
20          which higher tolls rates are imposed during times or in  
21          locations of increased congestion;

22          (12) A provision governing the deposit and allocation  
23          of revenues including user fees;

24          (13) A provision governing rights to real and personal  
25          property of the State, the Department, the contractor, and  
26          other third parties;

1           (14) A provision stating that the contractor must,  
2           pursuant to Section 75 of this Act, finance an independent  
3           audit if the construction costs under the contract exceed  
4           \$50,000,000;

5           (15) A provision regarding the implementation and  
6           delivery of a comprehensive system of internal audits;

7           (16) A provision regarding the implementation and  
8           delivery of reports, which must include a requirement that  
9           the contractor file with the Department, at least on an  
10          annual basis, financial statements containing information  
11          required by generally accepted accounting principles  
12          (GAAP);

13          (17) Procedural requirements for obtaining the prior  
14          approval of the Department when rights that are the subject  
15          of the agreement, including but not limited to development  
16          rights, construction rights, property rights, and rights  
17          to certain revenues, are sold, assigned, transferred, or  
18          pledged as collateral to secure financing or for any other  
19          reason;

20          (18) Grounds for termination of the agreement by the  
21          Department or the contractor and a restatement of the  
22          Department's rights under Section 35 of this Act;

23          (19) A requirement that the contractor enter into a  
24          project labor agreement pursuant to Section 100 of this  
25          Act;

26          (19.5) A provision stating that construction

1 contractors shall comply with the requirements of Section  
2 30-22 of the Illinois Procurement Code pursuant to Section  
3 100 of this Act;

4 (20) Timelines, deadlines, and scheduling;

5 (21) Review of plans, including development,  
6 financing, construction, management, or operations plans,  
7 by the Department;

8 (22) Inspections by the Department, including  
9 inspections of construction work and improvements;

10 (23) Rights and remedies of the Department in the event  
11 that the contractor defaults or otherwise fails to comply  
12 with the terms of the agreement;

13 (24) A code of ethics for the contractor's officers and  
14 employees; and

15 (25) Procedures for amendment to the agreement.

16 (b) The public private agreement may include any or all of  
17 the following:

18 (1) A provision regarding the extension of the  
19 agreement that is consistent with Section 15 of this Act;

20 (2) Cash reserves requirements;

21 (3) Delivery of performance and payment bonds or other  
22 performance security in a form and amount that is  
23 satisfactory to the Department;

24 (4) Maintenance of public liability insurance;

25 (5) Maintenance of self-insurance;

26 (6) Provisions governing grants and loans, pursuant to

1           which the Department may agree to make grants or loans for  
2           the development, financing, construction, management, or  
3           operation of the Illiana Expressway project from time to  
4           time from amounts received from the federal government or  
5           any agency or instrumentality of the federal government or  
6           from any State or local agency;

7           (7) Reimbursements to the Department for work  
8           performed and goods, services, and equipment provided by  
9           the Department; and

10          (8) All other terms, conditions, and provisions  
11          acceptable to the Department that the Department deems  
12          necessary and proper and in the public interest.

13          Section 30. Interim agreements.

14          (a) Prior to or in connection with the negotiation of the  
15          public private agreement, the Department may enter into an  
16          interim agreement with the contractor.

17          (b) The interim agreement may not authorize the contractor  
18          to perform construction work prior to the execution of the  
19          public private agreement.

20          (c) The interim agreement may include any or all of the  
21          following:

22                  (1) Timelines, deadlines, and scheduling;

23                  (2) Compensation including the payment of costs and  
24                  fees in the event the Department terminates the interim  
25                  agreement or declines to proceed with negotiation of the

1 public private agreement;

2 (3) A provision governing the contractor's authority  
3 to commence activities related to the Illiana Expressway  
4 project including but not limited to project planning,  
5 advance right-of-way acquisition, design and engineering,  
6 environmental analysis and mitigation, surveying,  
7 conducting studies including revenue and transportation  
8 studies, and ascertaining the availability of financing;

9 (4) Procurement procedures;

10 (5) A provision governing rights to real and personal  
11 property of the State, the Department, the contractor, and  
12 other third parties;

13 (6) All other terms, conditions, and provisions  
14 acceptable to the Department that the Department deems  
15 necessary and proper and in the public interest.

16 (d) The Department may enter into one or more interim  
17 agreements with one or more contractors if the Department  
18 determines in writing that it is in the public interest to do  
19 so.

20 Section 35. Termination of the Public Private Agreement.  
21 The Department may terminate a public private agreement or  
22 interim agreement under Section 30 of this Act if the  
23 contractor or any executive employee of the contractor is found  
24 guilty of any criminal offense related to the conduct of its  
25 business or the regulation thereof in any jurisdiction. For

1 purposes of this Section, an "executive employee" is the  
2 President, Chairman, Chief Executive Officer, or Chief  
3 Financial Officer; any employee with executive decision-making  
4 authority over the long-term or day-to-day affairs of the  
5 contractor; or any employee whose compensation or evaluation is  
6 determined in whole or in part by the award of the public  
7 private agreement.

8 Section 40. Public private agreement proceeds. After the  
9 payment of all transaction costs, including payments for legal,  
10 accounting, financial, consultation, and other professional  
11 services, all moneys received by the State as compensation for  
12 the public private agreement shall be deposited into the  
13 Illiana Expressway Proceeds Fund, which is hereby created as a  
14 special fund in the State treasury. Expenditures may be made  
15 from the Fund only in the manner as appropriated by the General  
16 Assembly by law.

17 Section 45. User fees. No user fees may be imposed by the  
18 contractor except as set forth in the public private agreement.

19 Section 47. Selection of professional design firms.  
20 Notwithstanding any provision of law to the contrary, the  
21 selection of professional design firms by the Department or the  
22 contractor shall comply with the Architectural, Engineering,  
23 and Land Surveying Qualifications Based Selection Act.

1           Section 50. Other contracts. The Department may, pursuant  
2 to the Illinois Procurement Code and rules adopted under that  
3 Code, award contracts for goods, services, or equipment to  
4 persons other than the contractor for goods, services, or  
5 equipment not provided for in the public private agreement.

6           Section 55. Planning for the Illiana Expressway project.  
7 The Illiana Expressway project shall be subject to all  
8 applicable planning requirements otherwise required by law,  
9 including land use planning, regional planning, transportation  
10 planning, and environmental compliance requirements.

11           Section 60. Illinois Department of Transportation;  
12 reporting requirements and information requests.

13           (a) The Department shall submit written monthly progress  
14 reports to the Procurement Policy Board and the General  
15 Assembly on the Illiana Expressway project. The report shall  
16 include the status of any public private agreements or other  
17 contracting and any ongoing or completed studies. The  
18 Procurement Policy Board may determine the format for the  
19 written monthly progress reports.

20           (b) The Department shall also respond promptly in writing  
21 to all inquiries and comments of the Procurement Policy Board  
22 with respect to any conduct taken by the Department to  
23 implement, execute, or administer the provisions of this Act.



1           (c) Upon request, the Department shall appear and testify  
2 before the Procurement Policy Board and produce information  
3 requested by the Procurement Policy Board.

4           (d) At least 30 days prior to the beginning of the  
5 Department's fiscal year, the Department shall prepare an  
6 annual written progress report on the Illiana Expressway  
7 project. The report shall include the status of any public  
8 private agreements or other contracting and any ongoing or  
9 completed studies. The report shall be delivered to the  
10 Procurement Policy Board and each county, municipality, and  
11 metropolitan planning organization whose territory includes or  
12 lies within 5 miles from a proposed or existing Illiana  
13 Expressway project site.

14           Section 65. Illinois Department of Transportation;  
15 publication requirements.

16           (a) The Department shall publish a notice of the execution  
17 of the public private agreement on its website and in a  
18 newspaper of general circulation within the county or counties  
19 whose territory includes or lies within 5 miles from a proposed  
20 or existing Illiana Expressway project site.

21           (b) The Department shall publish the full text of the  
22 public private agreement on its website.

23           Section 70. Electronic toll collection systems. Any  
24 electronic toll collection system used on the Illiana

1 Expressway must be compatible with the electronic toll  
2 collection system used by the Illinois State Toll Highway  
3 Authority.

4 Section 75. Independent audits. If the public private  
5 agreement provides for the construction of all or part of the  
6 Illiana Expressway project and the estimated construction  
7 costs under the agreement exceed \$50,000,000, the Department  
8 must also require the contractor to finance an independent  
9 audit of any and all traffic and cost estimates associated with  
10 the agreement as well as a review of all public costs and  
11 potential liabilities to which taxpayers could be exposed  
12 (including improvements to other transportation facilities  
13 that may be needed as a result of the agreement, failure by the  
14 contractor to reimburse the Department for services provided,  
15 and potential risk and liability in the event of default on the  
16 agreement or default on other types of financing). The  
17 independent audit must be conducted by an independent  
18 consultant selected by the Department.

19 Section 80. Property acquisition. The Department may  
20 acquire property for the Illiana Expressway project using the  
21 powers granted to it in the Illinois Highway Code. The  
22 Department may not exercise the power of quick take in  
23 connection with the Illiana Expressway project.

1           Section 85. Rights of the Illinois Department of  
2 Transportation upon expiration or termination of the  
3 agreement.

4           (a) Upon the termination or expiration of the public  
5 private agreement, including a termination for default, the  
6 Department shall have the right to take over the Illiana  
7 Expressway project and to succeed to all of the right, title,  
8 and interest in the Illiana Expressway project, subject to any  
9 liens on revenues previously granted by the contractor to any  
10 person providing financing for the Illiana Expressway project.

11           (b) If the Department elects to take over the Illiana  
12 Expressway project as provided in subsection (a) of this  
13 Section, the Department may, without limitation, do the  
14 following:

15                 (1) develop, finance, construct, maintain, or operate  
16 the project, including through another public private  
17 agreement entered into in accordance with this Act; or

18                 (2) impose, collect, retain, and use user fees, if any,  
19 for the project.

20           (c) If the Department elects to take over the Illiana  
21 Expressway project as provided in subsection (a) of this  
22 Section, the Department may, without limitation, use the  
23 revenues, if any, for any lawful purpose, including to:

24                 (1) make payments to individuals or entities in  
25 connection with any financing of the Illiana Expressway  
26 project;

1           (2) permit a contractor or third party to receive some  
2           or all of the revenues under the public private agreement  
3           entered into under this Act;

4           (3) pay development costs of the Illiana Expressway;

5           (4) pay current operation costs of the Illiana  
6           Expressway; and

7           (5) pay the contractor for any compensation or payment  
8           owing upon termination.

9           (d) All real property acquired as a part of the Illiana  
10          Expressway shall be held in the name of the State of Illinois  
11          upon termination of the Illiana Expressway project.

12          (e) The full faith and credit of the State or any political  
13          subdivision of the State or the Department is not pledged to  
14          secure any financing of the contractor by the election to take  
15          over the Illiana Expressway project. Assumption of development  
16          or operation, or both, of the Illiana Expressway project does  
17          not obligate the State or any political subdivision of the  
18          State or the Department to pay any obligation of the  
19          contractor.

20          Section 90. Standards for the Illiana Expressway project.

21          (a) The plans and specifications for the Illiana Expressway  
22          project must comply with:

23                 (1) the Department's standards for other projects of a  
24                 similar nature or as otherwise provided in the public  
25                 private agreement;

1           (2) the Professional Engineering Practice Act of 1989,  
2           the Structural Engineering Practice Act of 1989, the  
3           Illinois Architecture Practice Act of 1989, and the  
4           Illinois Professional Land Surveyor Act of 1989; and

5           (3) any other applicable State or federal standards.

6           (b) The Illiana Expressway constructed is considered to be  
7           part of the State highway system for purposes of  
8           identification, maintenance standards, and enforcement of  
9           traffic laws under the jurisdiction of the Department. The  
10          Department shall establish performance based standards for  
11          financial documents related to the Illiana Expressway.

12          Section 95. Financial arrangements.

13          (a) The Department may apply for, execute, or endorse  
14          applications submitted by contractors and other third parties  
15          to obtain federal, State, or local credit assistance to  
16          develop, finance, maintain, or operate the Illiana Expressway  
17          project.

18          (b) The Department may take any action to obtain federal,  
19          State, or local assistance for the Illiana Expressway project  
20          that serves the public purpose of this Act and may enter into  
21          any contracts required to receive the federal assistance. The  
22          Department may determine that it serves the public purpose of  
23          this Act for all or any portion of the costs of the Illiana  
24          Expressway project to be paid, directly or indirectly, from the  
25          proceeds of a grant or loan, line of credit, or loan guarantee

1 made by a local, State, or federal government or any agency or  
2 instrumentality of a local, State, or federal government. Such  
3 assistance may include, but not be limited to, federal credit  
4 assistance pursuant to the Transportation Infrastructure  
5 Finance and Innovation Act (TIFIA).

6 (c) The Department may agree to make grants or loans for  
7 the development, financing, construction, management, or  
8 operation of the Illiana Expressway project from time to time,  
9 from amounts received from the federal, State, or local  
10 government or any agency or instrumentality of the federal,  
11 State, or local government.

12 (d) Any financing of the Illiana Expressway project may be  
13 in the amounts and subject to the terms and conditions  
14 contained in the public private agreement.

15 (e) For the purpose of financing the Illiana Expressway  
16 project, the contractor and the Department may do the  
17 following:

18 (1) propose to use any and all revenues that may be  
19 available to them;

20 (2) enter into grant agreements;

21 (3) access any other funds available to the Department;

22 and

23 (4) accept grants from any public or private agency or  
24 entity.

25 (f) For the purpose of financing the Illiana Expressway  
26 project, public funds may be used and mixed and aggregated with

1 funds provided by or on behalf of the contractor or other  
2 private entities.

3 (g) For the purpose of financing the Illiana Expressway  
4 project, the Department is authorized to apply for, execute, or  
5 endorse applications for an allocation of tax-exempt bond  
6 financing authorization provided by Section 142(m) of the  
7 United States Internal Revenue Code, as well as financing  
8 available under any other federal law or program.

9 (h) Any bonds, debt, or other securities or other financing  
10 issued for the purposes of this Act shall not be deemed to  
11 constitute a debt of the State or any political subdivision of  
12 the State or a pledge of the faith and credit of the State or  
13 any political subdivision of the State.

14 Section 100. Labor.

15 (a) The public private agreement shall require the  
16 contractor to enter into a project labor agreement.

17 (b) The public private agreement shall require all  
18 construction contractors to comply with the requirements of  
19 Section 30-22 of the Illinois Procurement Code as they apply to  
20 responsible bidders and to present satisfactory evidence of  
21 that compliance to the Department, unless the Illiana  
22 Expressway project is federally funded and the application of  
23 those requirements would jeopardize the receipt or use of  
24 federal funds in support of the Illiana Expressway project.

1 Section 105. Law enforcement.

2 (a) All law enforcement officers of the State and of each  
3 affected local jurisdiction have the same powers and  
4 jurisdiction within the boundaries of the Illiana Expressway as  
5 they have in their respective areas of jurisdiction.

6 (b) Law enforcement officers shall have access to the  
7 Illiana Expressway at any time for the purpose of exercising  
8 the law enforcement officers' powers and jurisdiction.

9 (c) The traffic and motor vehicle laws of the State of  
10 Illinois or, if applicable, any local jurisdiction shall be the  
11 same as those applying to conduct on highways in the State of  
12 Illinois or the local jurisdiction.

13 (d) Punishment for infractions and offenses shall be as  
14 prescribed by law for conduct occurring on highways in the  
15 State of Illinois or the local jurisdiction.

16 Section 110. Term of agreement; reversion of property to  
17 the Department.

18 (a) The Department shall terminate the contractor's  
19 authority and duties under the public private agreement on the  
20 date set forth in the public private agreement.

21 (b) Upon termination of the public private agreement, the  
22 authority and duties of the contractor under this Act cease,  
23 except for those duties and obligations that extend beyond the  
24 termination, as set forth in the public private agreement, and  
25 all interests in the Illiana Expressway shall revert to the



1 Department.

2 Section 115. Additional powers of the Department with  
3 respect to the Illiana Expressway.

4 (a) The Department may exercise any powers provided under  
5 this Act in participation or cooperation with any governmental  
6 entity and enter into any contracts to facilitate that  
7 participation or cooperation. The Department shall cooperate  
8 with other governmental entities under this Act.

9 (b) The Department may make and enter into all contracts  
10 and agreements necessary or incidental to the performance of  
11 the Department's duties and the execution of the Department's  
12 powers under this Act. Except as otherwise required by law,  
13 these contracts or agreements are not subject to any approvals  
14 other than the approval of the Department, Governor, or federal  
15 agencies.

16 (c) The Department may pay the costs incurred under the  
17 public private agreement entered into under this Act from any  
18 funds available to the Department for the purpose of the  
19 Illiana Expressway under this Act or any other statute.

20 (d) The Department or other State agency may not take any  
21 action that would impair the public private agreement entered  
22 into under this Act, except as provided by law.

23 (e) The Department may enter into an agreement between and  
24 among the contractor, the Department, and the Department of  
25 State Police concerning the provision of law enforcement

1 assistance with respect to the Illiana Expressway under this  
2 Act.

3 (f) The Department is authorized to enter into arrangements  
4 with the Illinois State Police related to costs incurred in  
5 providing law enforcement assistance under this Act.

6 Section 120. Prohibited local action; home rule. A unit of  
7 local government, including a home rule unit, may not take any  
8 action that would have the effect of impairing the public  
9 private agreement under this Act. This Section is a denial and  
10 limitation of home rule powers and functions under subsection  
11 (h) of Section 6 of Article VII of the Illinois Constitution.

12 Section 125. Powers liberally construed. The powers  
13 conferred by this Act shall be liberally construed in order to  
14 accomplish their purposes and shall be in addition and  
15 supplemental to the powers conferred by any other law. If any  
16 other law or rule is inconsistent with this Act, this Act is  
17 controlling as to any public private agreement entered into  
18 under this Act.

19 Section 130. Full and complete authority. This Act contains  
20 full and complete authority for agreements and leases with  
21 private entities to carry out the activities described in this  
22 Act. Except as otherwise required by law, no procedure,  
23 proceedings, publications, notices, consents, approvals,

1 orders, or acts by the Department or any other State or local  
2 agency or official are required to enter into an agreement or  
3 lease.

4 Section 135. Severability. The provisions of this Act are  
5 severable under Section 1.31 of the Statute on Statutes.

6 Section 905. The Department of Transportation Law of the  
7 Civil Administrative Code of Illinois is amended by adding  
8 Section 2705-220 as follows:

9 (20 ILCS 2705/2705-220 new)

10 Sec. 2705-220. Public private partnerships for  
11 transportation. The Department may exercise all powers granted  
12 to it under the Public Private Agreements for the Illiana  
13 Expressway Act.

14 Section 910. The Illinois Finance Authority Act is amended  
15 by adding Section 825-105 as follows:

16 (20 ILCS 3501/825-105 new)

17 Sec. 825-105. Illiana Expressway financing. For the  
18 purpose of financing the Illiana Expressway under the Public  
19 Private Agreements for the Illiana Expressway Act, the  
20 Authority is authorized to apply for an allocation of  
21 tax-exempt bond financing authorization provided by Section

1 142(m) of the United States Internal Revenue Code, as well as  
2 financing available under any other federal law or program.

3 Section 915. The State Finance Act is amended by adding  
4 Section 5.755 as follows:

5 (30 ILCS 105/5.755 new)

6 Sec. 5.755. The Illiana Expressway Proceeds Fund.

7 Section 920. The Public Construction Bond Act is amended by  
8 adding Section 1.5 as follows:

9 (30 ILCS 550/1.5 new)

10 Sec. 1.5. Public private agreements. This Act applies to  
11 any public private agreement entered into under the Public  
12 Private Agreements for the Illiana Expressway Act.

13 Section 925. The Employment of Illinois Workers on Public  
14 Works Act is amended by adding Section 2.5 as follows:

15 (30 ILCS 570/2.5 new)

16 Sec. 2.5. Public private agreements. This Act applies to  
17 any public private agreement entered into under the Public  
18 Private Agreements for the Illiana Expressway Act.

19 Section 930. The Business Enterprise for Minorities,

1 Females, and Persons with Disabilities Act is amended by adding  
2 Section 2.5 as follows:

3 (30 ILCS 575/2.5 new)

4 Sec. 2.5. Public private agreements. This Act applies to  
5 any public private agreement entered into under the Public  
6 Private Agreements for the Illiana Expressway Act.

7 Section 935. The Retailers' Occupation Tax Act is amended  
8 by adding Section 1q as follows:

9 (35 ILCS 120/1q new)

10 Sec. 1q. Building materials exemption; Illiana Expressway  
11 public private partnership.

12 (a) Each retailer that makes a qualified sale of building  
13 materials to be incorporated into the Illiana Expressway as  
14 defined in the Public Private Agreements for the Illiana  
15 Expressway Act, by remodeling, rehabilitating, or new  
16 construction, may deduct receipts from those sales when  
17 calculating the tax imposed by this Act.

18 (b) As used in this Section, "qualified sale" means a sale  
19 of building materials that will be incorporated into the  
20 Illiana Expressway for which a Certificate of Eligibility for  
21 Sales Tax Exemption has been issued by the Illinois Department  
22 of Transportation, which has authority over the project.

23 (c) To document the exemption allowed under this Section,

1 the retailer must obtain from the purchaser a copy of the  
2 Certificate of Eligibility for Sales Tax Exemption issued by  
3 the Illinois Department of Transportation, which has  
4 jurisdiction over the project into which the building materials  
5 will be incorporated is located. The Certificate of Eligibility  
6 for Sales Tax Exemption must contain all of the following:

7 (1) statement that the project identified in the  
8 Certificate meets all the requirements of the Illinois  
9 Department of Transportation;

10 (2) the location or address of the project; and

11 (3) the signature of the Secretary of the Illinois  
12 Department of Transportation, which has authority over the  
13 Illiana Expressway or the Secretary's delegate.

14 (d) In addition to meeting the requirements of subsection  
15 (c) of this Act, the retailer must obtain a certificate from  
16 the purchaser that contains all of the following:

17 (1) a statement that the building materials are being  
18 purchased for incorporation into the Illiana Expressway in  
19 accordance with the Public Private Agreements for the  
20 Illiana Expressway Act;

21 (2) the location or address of the project into which  
22 the building materials will be incorporated;

23 (3) the name of the project;

24 (4) a description of the building materials being  
25 purchased; and

26 (5) the purchaser's signature and date of purchase.

1           (e) This Section is exempt from Section 2-70 of this Act.

2           Section 940. The Property Tax Code is amended by changing  
3 Section 15-55 as follows:

4           (35 ILCS 200/15-55)

5           Sec. 15-55. State property.

6           (a) All property belonging to the State of Illinois is  
7 exempt. However, the State agency holding title shall file the  
8 certificate of ownership and use required by Section 15-10,  
9 together with a copy of any written lease or agreement, in  
10 effect on March 30 of the assessment year, concerning parcels  
11 of 1 acre or more, or an explanation of the terms of any oral  
12 agreement under which the property is leased, subleased or  
13 rented.

14           The leased property shall be assessed to the lessee and the  
15 taxes thereon extended and billed to the lessee, and collected  
16 in the same manner as for property which is not exempt. The  
17 lessee shall be liable for the taxes and no lien shall attach  
18 to the property of the State.

19           For the purposes of this Section, the word "leases"  
20 includes licenses, franchises, operating agreements and other  
21 arrangements under which private individuals, associations or  
22 corporations are granted the right to use property of the  
23 Illinois State Toll Highway Authority and includes all property  
24 of the Authority used by others without regard to the size of

1 the leased parcel.

2 (b) However, all property of every kind belonging to the  
3 State of Illinois, which is or may hereafter be leased to the  
4 Illinois Prairie Path Corporation, shall be exempt from all  
5 assessments, taxation or collection, despite the making of any  
6 such lease, if it is used for:

7 (1) conservation, nature trail or any other  
8 charitable, scientific, educational or recreational  
9 purposes with public benefit, including the preserving and  
10 aiding in the preservation of natural areas, objects,  
11 flora, fauna or biotic communities;

12 (2) the establishment of footpaths, trails and other  
13 protected areas;

14 (3) the conservation of the proper use of natural  
15 resources or the promotion of the study of plant and animal  
16 communities and of other phases of ecology, natural history  
17 and conservation;

18 (4) the promotion of education in the fields of nature,  
19 preservation and conservation; or

20 (5) similar public recreational activities conducted  
21 by the Illinois Prairie Path Corporation.

22 No lien shall attach to the property of the State. No tax  
23 liability shall become the obligation of or be enforceable  
24 against Illinois Prairie Path Corporation.

25 (c) If the State sells the James R. Thompson Center or the  
26 Elgin Mental Health Center and surrounding land located at 750



1 S. State Street, Elgin, Illinois, as provided in subdivision  
2 (a)(2) of Section 7.4 of the State Property Control Act, to  
3 another entity whose property is not exempt and immediately  
4 thereafter enters into a leaseback or other agreement that  
5 directly or indirectly gives the State a right to use, control,  
6 and possess the property, that portion of the property leased  
7 and occupied exclusively by the State shall remain exempt under  
8 this Section. For the property to remain exempt under this  
9 subsection (c), the State must retain an option to purchase the  
10 property at a future date or, within the limitations period for  
11 reverters, the property must revert back to the State.

12 If the property has been conveyed as described in this  
13 subsection (c), the property is no longer exempt pursuant to  
14 this Section as of the date when:

15 (1) the right of the State to use, control, and possess  
16 the property has been terminated; or

17 (2) the State no longer has an option to purchase or  
18 otherwise acquire the property and there is no provision  
19 for a reverter of the property to the State within the  
20 limitations period for reverters.

21 Pursuant to Sections 15-15 and 15-20 of this Code, the  
22 State shall notify the chief county assessment officer of any  
23 transaction under this subsection (c). The chief county  
24 assessment officer shall determine initial and continuing  
25 compliance with the requirements of this Section for tax  
26 exemption. Failure to notify the chief county assessment

1 officer of a transaction under this subsection (c) or to  
2 otherwise comply with the requirements of Sections 15-15 and  
3 15-20 of this Code shall, in the discretion of the chief county  
4 assessment officer, constitute cause to terminate the  
5 exemption, notwithstanding any other provision of this Code.

6 (c-1) If the Illinois State Toll Highway Authority sells  
7 the Illinois State Toll Highway Authority headquarters  
8 building and surrounding land, located at 2700 Ogden Avenue,  
9 Downers Grove, Illinois as provided in subdivision (a)(2) of  
10 Section 7.5 of the State Property Control Act, to another  
11 entity whose property is not exempt and immediately thereafter  
12 enters into a leaseback or other agreement that directly or  
13 indirectly gives the State or the Illinois State Toll Highway  
14 Authority a right to use, control, and possess the property,  
15 that portion of the property leased and occupied exclusively by  
16 the State or the Authority shall remain exempt under this  
17 Section. For the property to remain exempt under this  
18 subsection (c), the Authority must retain an option to purchase  
19 the property at a future date or, within the limitations period  
20 for reverters, the property must revert back to the Authority.

21 If the property has been conveyed as described in this  
22 subsection (c), the property is no longer exempt pursuant to  
23 this Section as of the date when:

24 (1) the right of the State or the Authority to use,  
25 control, and possess the property has been terminated; or

26 (2) the Authority no longer has an option to purchase

1           or otherwise acquire the property and there is no provision  
2           for a reverter of the property to the Authority within the  
3           limitations period for reverters.

4           Pursuant to Sections 15-15 and 15-20 of this Code, the  
5           Authority shall notify the chief county assessment officer of  
6           any transaction under this subsection (c). The chief county  
7           assessment officer shall determine initial and continuing  
8           compliance with the requirements of this Section for tax  
9           exemption. Failure to notify the chief county assessment  
10          officer of a transaction under this subsection (c) or to  
11          otherwise comply with the requirements of Sections 15-15 and  
12          15-20 of this Code shall, in the discretion of the chief county  
13          assessment officer, constitute cause to terminate the  
14          exemption, notwithstanding any other provision of this Code.

15          (d) The fair market rent of each parcel of real property in  
16          Will County owned by the State of Illinois for the purpose of  
17          developing an airport by the Department of Transportation shall  
18          include the assessed value of leasehold tax. The lessee of each  
19          parcel of real property in Will County owned by the State of  
20          Illinois for the purpose of developing an airport by the  
21          Department of Transportation shall not be liable for the taxes  
22          thereon. In order for the State to compensate taxing districts  
23          for the leasehold tax under this paragraph the Will County  
24          Supervisor of Assessments shall certify, in writing, to the  
25          Department of Transportation, the amount of leasehold taxes  
26          extended for the 2002 property tax year for each such exempt

1 parcel. The Department of Transportation shall pay to the Will  
2 County Treasurer, from the Tax Recovery Fund, on or before July  
3 1 of each year, the amount of leasehold taxes for each such  
4 exempt parcel as certified by the Will County Supervisor of  
5 Assessments. The tax compensation shall terminate on December  
6 31, 2020. It is the duty of the Department of Transportation to  
7 file with the Office of the Will County Supervisor of  
8 Assessments an affidavit stating the termination date for  
9 rental of each such parcel due to airport construction. The  
10 affidavit shall include the property identification number for  
11 each such parcel. In no instance shall tax compensation for  
12 property owned by the State be deemed delinquent or bear  
13 interest. In no instance shall a lien attach to the property of  
14 the State. In no instance shall the State be required to pay  
15 leasehold tax compensation in excess of the Tax Recovery Fund's  
16 balance.

17 (e) Public Act 81-1026 applies to all leases or agreements  
18 entered into or renewed on or after September 24, 1979.

19 (f) Notwithstanding anything to the contrary in this Code,  
20 all property owned by the State that is the Illiana Expressway,  
21 as defined in the Public Private Agreements for the Illiana  
22 Expressway Act, and that is used for transportation purposes  
23 and that is leased for those purposes to another entity whose  
24 property is not exempt shall remain exempt, and any leasehold  
25 interest in the property shall not be subject to taxation under  
26 Section 9-195 of this Act.

1 (Source: P.A. 95-331, eff. 8-21-07; 96-192, eff. 8-10-09.)

2 Section 945. The Prevailing Wage Act is amended by changing  
3 Section 2 as follows:

4 (820 ILCS 130/2) (from Ch. 48, par. 39s-2)

5 Sec. 2. This Act applies to the wages of laborers,  
6 mechanics and other workers employed in any public works, as  
7 hereinafter defined, by any public body and to anyone under  
8 contracts for public works. This includes any maintenance,  
9 repair, assembly, or disassembly work performed on equipment  
10 whether owned, leased, or rented.

11 As used in this Act, unless the context indicates  
12 otherwise:

13 "Public works" means all fixed works constructed or  
14 demolished by any public body, or paid for wholly or in part  
15 out of public funds. "Public works" as defined herein includes  
16 all projects financed in whole or in part with bonds, grants,  
17 loans, or other funds made available by or through the State or  
18 any of its political subdivisions, including but not limited  
19 to: bonds issued under the Industrial Project Revenue Bond Act  
20 (Article 11, Division 74 of the Illinois Municipal Code), the  
21 Industrial Building Revenue Bond Act, the Illinois Finance  
22 Authority Act, the Illinois Sports Facilities Authority Act, or  
23 the Build Illinois Bond Act; loans or other funds made  
24 available pursuant to the Build Illinois Act; or funds from the

1 Fund for Illinois' Future under Section 6z-47 of the State  
2 Finance Act, funds for school construction under Section 5 of  
3 the General Obligation Bond Act, funds authorized under Section  
4 3 of the School Construction Bond Act, funds for school  
5 infrastructure under Section 6z-45 of the State Finance Act,  
6 and funds for transportation purposes under Section 4 of the  
7 General Obligation Bond Act. "Public works" also includes (i)  
8 all projects financed in whole or in part with funds from the  
9 Department of Commerce and Economic Opportunity under the  
10 Illinois Renewable Fuels Development Program Act for which  
11 there is no project labor agreement and (ii) all work performed  
12 pursuant to a public private agreement under the Public Private  
13 Agreements for the Illiana Expressway Act. "Public works" also  
14 includes all projects at leased facility property used for  
15 airport purposes under Section 35 of the Local Government  
16 Facility Lease Act. "Public works" also includes the  
17 construction of a new wind power facility by a business  
18 designated as a High Impact Business under Section 5.5(a)(3)(E)  
19 of the Illinois Enterprise Zone Act. "Public works" does not  
20 include work done directly by any public utility company,  
21 whether or not done under public supervision or direction, or  
22 paid for wholly or in part out of public funds. "Public works"  
23 does not include projects undertaken by the owner at an  
24 owner-occupied single-family residence or at an owner-occupied  
25 unit of a multi-family residence.

26 "Construction" means all work on public works involving

1 laborers, workers or mechanics. This includes any maintenance,  
2 repair, assembly, or disassembly work performed on equipment  
3 whether owned, leased, or rented.

4 "Locality" means the county where the physical work upon  
5 public works is performed, except (1) that if there is not  
6 available in the county a sufficient number of competent  
7 skilled laborers, workers and mechanics to construct the public  
8 works efficiently and properly, "locality" includes any other  
9 county nearest the one in which the work or construction is to  
10 be performed and from which such persons may be obtained in  
11 sufficient numbers to perform the work and (2) that, with  
12 respect to contracts for highway work with the Department of  
13 Transportation of this State, "locality" may at the discretion  
14 of the Secretary of the Department of Transportation be  
15 construed to include two or more adjacent counties from which  
16 workers may be accessible for work on such construction.

17 "Public body" means the State or any officer, board or  
18 commission of the State or any political subdivision or  
19 department thereof, or any institution supported in whole or in  
20 part by public funds, and includes every county, city, town,  
21 village, township, school district, irrigation, utility,  
22 reclamation improvement or other district and every other  
23 political subdivision, district or municipality of the state  
24 whether such political subdivision, municipality or district  
25 operates under a special charter or not.

26 The terms "general prevailing rate of hourly wages",

1 "general prevailing rate of wages" or "prevailing rate of  
2 wages" when used in this Act mean the hourly cash wages plus  
3 fringe benefits for training and apprenticeship programs  
4 approved by the U.S. Department of Labor, Bureau of  
5 Apprenticeship and Training, health and welfare, insurance,  
6 vacations and pensions paid generally, in the locality in which  
7 the work is being performed, to employees engaged in work of a  
8 similar character on public works.

9 (Source: P.A. 95-341, eff. 8-21-07; 96-28, eff. 7-1-09; 96-58,  
10 eff. 1-1-10; 96-186, eff. 1-1-10; revised 8-20-09.)

11 Section 999. Effective date. This Act takes effect upon  
12 becoming law.