



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2149

Introduced 2/10/2011, by Sen. John M. Sullivan

SYNOPSIS AS INTRODUCED:

See Index

Creates the Financial Oversight Panel Law of the School Code. Allows a school district (other than the Chicago school district) to petition the State Board of Education for the establishment of a Financial Oversight Panel for the district. Allows the State Board to establish a Financial Oversight Panel without a petition from a district. Contains provisions concerning duties of the district; members and meetings of a Panel; powers of a Panel; officers of a Panel; collective bargaining agreements; deposits and investments; cash and bank accounts; the financial, management, and budgetary structure; the School District Emergency Financial Assistance Fund; grants and loans; the issuance of bonds; a tax levy; a debt service fund; a debt service reserve fund; bond anticipation notes; tax anticipation warrants; reports; a Panel audit; Panel property being exempt from taxation; sanctions; and abolition of a Panel. Makes related changes in the School Code and the Property Tax Code. Effective July 1, 2011.

LRB097 10095 NHT 50275 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning education.

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

4 Section 5. The Property Tax Code is amended by changing
5 Sections 18-50.1, 18-92, and 18-241 as follows:

6 (35 ILCS 200/18-50.1)

7 Sec. 18-50.1. School Finance Authority and Financial
8 Oversight Panel levies. Notwithstanding any other law to the
9 contrary, any levy adopted by a School Finance Authority
10 created under Article 1F of the School Code or a Financial
11 Oversight Panel established under Article 1H of the School Code
12 is valid and shall be extended by the county clerk if it is
13 certified to the county clerk by the Authority or Panel in
14 sufficient time to allow the county clerk to include the levy
15 in the extension for the taxable year.

16 (Source: P.A. 92-855, eff. 12-6-02.)

17 (35 ILCS 200/18-92)

18 Sec. 18-92. Downstate School Finance Authority for
19 Elementary Districts Law and Financial Oversight Panel Law. The
20 provisions of the Truth in Taxation Law are subject to the
21 Downstate School Finance Authority for Elementary Districts
22 Law and the Financial Oversight Panel Law of the School Code.

1 (Source: P.A. 95-331, eff. 8-21-07.)

2 (35 ILCS 200/18-241)

3 Sec. 18-241. School Finance Authority and Financial
4 Oversight Panel.

5 (a) A School Finance Authority established under Article 1E
6 or 1F of the School Code shall not be a taxing district for
7 purposes of this Law. A Financial Oversight Panel established
8 under Article 1H of the School Code shall not be a taxing
9 district for purposes of this Law.

10 (b) This Law shall not apply to the extension of taxes for
11 a school district for the levy year in which a School Finance
12 Authority for the district is created pursuant to Article 1E or
13 1F of the School Code. This Law shall not apply to the
14 extension of taxes for a school district for the levy year in
15 which a Financial Oversight Panel for the district is created
16 pursuant to Article 1H of the School Code.

17 (Source: P.A. 92-547, eff. 6-13-02; 93-501, eff. 8-11-03.)

18 Section 15. The School Code is amended by changing Section
19 1B-8 and by adding Article 1H as follows:

20 (105 ILCS 5/1B-8) (from Ch. 122, par. 1B-8)

21 Sec. 1B-8. There is created in the State Treasury a special
22 fund to be known as the School District Emergency Financial
23 Assistance Fund (the "Fund"). The School District Emergency

1 Financial Assistance Fund shall consist of appropriations,
2 loan repayments, grants from the federal government, and
3 donations from any public or private source. Moneys in the Fund
4 may be appropriated only to the Illinois Finance Authority and
5 the State Board for those purposes authorized under this
6 Article and Articles ~~Article~~ 1F and 1H of this Code. The
7 appropriation may be allocated and expended by the State Board
8 for contractual services ~~as grants~~ to provide technical
9 assistance and consultation ~~consulting services~~ to school
10 districts to assess their financial condition to Financial
11 Oversight Panels that petition for emergency financial
12 assistance grants. ~~The and by the~~ Illinois Finance Authority
13 may provide ~~as~~ loans to school districts which are the subject
14 of an approved petition for emergency financial assistance
15 under Section 1B-4, ~~or~~ 1F-62, or 1H-65 of this Code. Neither
16 the State Board of Education nor the Illinois Finance Authority
17 may collect any fees for providing these services.

18 From the amount allocated to each such school district
19 under this Article the State Board shall identify a sum
20 sufficient to cover all approved costs of the Financial
21 Oversight Panel established for the respective school
22 district. If the State Board and State Superintendent of
23 Education have not approved emergency financial assistance in
24 conjunction with the appointment of a Financial Oversight
25 Panel, the Panel's approved costs shall be paid from deductions
26 from the district's general State aid.

1 The Financial Oversight Panel may prepare and file with the
2 State Superintendent a proposal for emergency financial
3 assistance for the school district and for its operations
4 budget. No expenditures shall be authorized by the State
5 Superintendent until he or she has approved the proposal of the
6 Panel, either as submitted or in such lesser amount determined
7 by the State Superintendent.

8 The maximum amount of an emergency financial assistance
9 loan which may be allocated to any school district under this
10 Article, including moneys necessary for the operations of the
11 Panel, shall not exceed \$4,000 times the number of pupils
12 enrolled in the school district during the school year ending
13 June 30 prior to the date of approval by the State Board of the
14 petition for emergency financial assistance, as certified to
15 the local board and the Panel by the State Superintendent. An
16 emergency financial assistance grant shall not exceed \$1,000
17 times the number of such pupils. A district may receive both a
18 loan and a grant.

19 The payment of an emergency State financial assistance
20 grant or loan shall be subject to appropriation by the General
21 Assembly. Emergency State financial assistance allocated and
22 paid to a school district under this Article may be applied to
23 any fund or funds from which the local board of education of
24 that district is authorized to make expenditures by law.

25 Any emergency financial assistance proposed by the
26 Financial Oversight Panel and approved by the State

1 Superintendent may be paid in its entirety during the initial
2 year of the Panel's existence or spread in equal or declining
3 amounts over a period of years not to exceed the period of the
4 Panel's existence. All loan payments made from the School
5 District Emergency Financial Assistance Fund for a school
6 district shall be required to be repaid, with simple interest
7 over the term of the loan at a rate equal to 50% of the one-year
8 Constant Maturity Treasury (CMT) yield as last published by the
9 Board of Governors of the Federal Reserve System before the
10 date on which the district's loan is approved by the State
11 Board of Education, not later than the date the Financial
12 Oversight Panel ceases to exist. The Panel shall establish and
13 the Illinois Finance Authority shall approve the terms and
14 conditions, including the schedule, of repayments. The
15 schedule shall provide for repayments commencing July 1 of each
16 year or upon each fiscal year's receipt of moneys from a tax
17 levy for emergency financial assistance. Repayment shall be
18 incorporated into the annual budget of the school district and
19 may be made from any fund or funds of the district in which
20 there are moneys available. Default on repayment is subject to
21 the Illinois Grant Funds Recovery Act. When moneys are repaid
22 as provided herein they shall not be made available to the
23 local board for further use as emergency financial assistance
24 under this Article at any time thereafter. All repayments
25 required to be made by a school district shall be received by
26 the State Board and deposited in the School District Emergency

1 Financial Assistance Fund.

2 In establishing the terms and conditions for the repayment
3 obligation of the school district the Panel shall annually
4 determine whether a separate local property tax levy is
5 required. The board of any school district with a tax rate for
6 educational purposes for the prior year of less than 120% of
7 the maximum rate for educational purposes authorized by Section
8 17-2 shall provide for a separate tax levy for emergency
9 financial assistance repayment purposes. Such tax levy shall
10 not be subject to referendum approval. The amount of the levy
11 shall be equal to the amount necessary to meet the annual
12 repayment obligations of the district as established by the
13 Panel, or 20% of the amount levied for educational purposes for
14 the prior year, whichever is less. However, no district shall
15 be required to levy the tax if the district's operating tax
16 rate as determined under Section 18-8 or 18-8.05 exceeds 200%
17 of the district's tax rate for educational purposes for the
18 prior year.

19 (Source: P.A. 94-234, eff. 7-1-06.)

20 (105 ILCS 5/Art. 1H heading new)

21 ARTICLE 1H. FINANCIAL OVERSIGHT PANELS

22 (105 ILCS 5/1H-1 new)

23 Sec. 1H-1. Short title. This Article may be cited as the
24 Financial Oversight Panel Law.

1 (105 ILCS 5/1H-5 new)

2 Sec. 1H-5. Findings; purpose; intent.

3 (a) The General Assembly finds all of the following:

4 (1) A fundamental goal of the people of this State, as
5 expressed in Section 1 of Article X of the Illinois
6 Constitution, is the educational development of all
7 persons to the limits of their capacities. When a board of
8 education faces financial difficulties, continued
9 operation of the public school system is threatened.

10 (2) A sound financial structure is essential to the
11 continued operation of any school system. It is vital to
12 commercial, educational, and cultural interests that
13 public schools remain in operation. To achieve that goal,
14 public school systems must have effective access to the
15 private market to borrow short and long term funds.

16 (3) To promote the financial integrity of districts, as
17 defined in this Article, it is necessary to provide for the
18 creation of financial oversight panels with the powers
19 necessary to promote sound financial management and to
20 ensure the continued operation of the public schools.

21 (b) It is the purpose of this Article to provide a secure
22 financial basis for the continued operation of public schools.
23 The intention of the General Assembly, in creating this
24 Article, is to establish procedures, provide powers, and impose
25 restrictions to ensure the financial and educational integrity

1 of the public schools, while leaving principal responsibility
2 for the educational policies of public schools to the boards of
3 education within the State, consistent with the requirements
4 for satisfying the public policy and purpose set forth in this
5 Article.

6 (105 ILCS 5/1H-10 new)

7 Sec. 1H-10. Definitions. As used in this Article:

8 "Bonds" means bonds authorized to be issued by the Panel
9 under Section 1H-70 of this Code.

10 "Budget" means the annual budget of the district required
11 under Section 17-1 of this Code, as in effect from time to
12 time.

13 "Chairperson" means the Chairperson of the Panel.

14 "District" means any school district having a population of
15 not more than 500,000 that has had a Financial Oversight Panel
16 established under this Article.

17 "Financial plan" means the financial plan of the district
18 to be developed pursuant to this Article, as in effect from
19 time to time.

20 "Fiscal year" means the fiscal year of the district.

21 "Obligations" means bonds and notes of the Panel.

22 "Panel" means a Financial Oversight Panel created under
23 this Article.

24 "State Board" means the State Board of Education.

25 "State Superintendent" means the State Superintendent of

1 Education.

2 (105 ILCS 5/1H-15 new)

3 Sec. 1H-15. Establishment of Financial Oversight Panels;
4 duties of district.

5 (a) A school district may petition the State Board for the
6 establishment of a Financial Oversight Panel for the district.
7 The petition shall cite the reasons why the creation of a
8 Financial Oversight Panel for the district is necessary. The
9 State Board may grant the petition upon determining that the
10 approval of the petition is in the best educational and
11 financial interests of the district. The State Board may
12 establish a Financial Oversight Panel without a petition from a
13 district if the State Board determines that such action is in
14 the best educational and financial interests of the district.

15 (b) Upon establishment of a Financial Oversight Panel, all
16 of the following shall occur:

17 (1) There is established a body both corporate and
18 politic to be known as the "(Name of School District)
19 Financial Oversight Panel", which in this name shall
20 exercise all authority vested in a Panel by this Article.

21 (2) The duties and obligations of the district under
22 Article 1B of this Code shall be transferred and become
23 duties and obligations owed by the district to the
24 Financial Oversight Panel.

25 (c) In the event of a conflict between the provisions of

1 this Article and the provisions of Article 1B of this Code, the
2 provisions of this Article control.

3 (d) Any school district having a Financial Oversight Panel
4 established under Article 1B of this Code or any Financial
5 Oversight Panel established under Article 1B may petition the
6 State Board for the establishment of a Financial Oversight
7 Panel under this Article and concurrent dissolution of the
8 Article 1B Panel. All records, papers, books, funds, or other
9 assets or liabilities belonging to the dissolving Financial
10 Oversight Panel shall be transferred to the newly established
11 Financial Oversight Panel.

12 (105 ILCS 5/1H-20 new)

13 Sec. 1H-20. Members of Panel; meetings.

14 (a) Upon establishment of a Financial Oversight Panel under
15 Section 1H-15 of this Code, the State Superintendent shall
16 within 15 working days thereafter appoint 5 members to serve on
17 a Financial Oversight Panel for the district. Members appointed
18 to the Panel shall serve at the pleasure of the State
19 Superintendent. The State Superintendent shall designate one
20 of the members of the Panel to serve as its Chairperson. In the
21 event of vacancy or resignation, the State Superintendent
22 shall, within 10 days after receiving notice, appoint a
23 successor to serve out that member's term. The State
24 Superintendent may remove a member for incompetence,
25 malfeasance, neglect of duty, or other just cause.

1 (b) Members of the Panel shall be selected primarily on the
2 basis of their experience and education in financial
3 management, with consideration given to persons knowledgeable
4 in education finance. Two members of the Panel shall be
5 residents of the school district that the Panel serves. A
6 member of the Panel may not be a member of the district's
7 school board or an employee of the district nor may a member
8 have a direct financial interest in the district.

9 (c) Panel members may be reimbursed by the State Board for
10 travel and other necessary expenses incurred in the performance
11 of their official duties. Unless paid from bonds issued under
12 Section 1H-70 of this Code, the amount reimbursed members for
13 their expenses shall be charged to the school district as part
14 of any emergency financial assistance and incorporated as a
15 part of the terms and conditions for repayment of the
16 assistance or shall be deducted from the district's general
17 State aid as provided in Section 1H-65 of this Code.

18 (d) With the exception of the chairperson, who shall be
19 designated as provided in subsection (a) of this Section, the
20 Panel may elect such officers as it deems appropriate.

21 (e) The first meeting of the Panel shall be held at the
22 call of the Chairperson. The Panel shall prescribe the times
23 and places for its meetings and the manner in which regular and
24 special meetings may be called and shall comply with the Open
25 Meetings Act.

26 (f) Three members of the Panel shall constitute a quorum.

1 When a vote is taken upon any measure before the Panel, a
2 quorum being present, a majority of the votes of the members
3 voting on the measure shall determine the outcome.

4 (105 ILCS 5/1H-25 new)

5 Sec. 1H-25. General powers. The purposes of the Panel shall
6 be to exercise financial control over the district and to
7 furnish financial assistance so that the district can provide
8 public education within the district's jurisdiction while
9 permitting the district to meet its obligations to its
10 creditors and the holders of its debt. Except as expressly
11 limited by this Article, the Panel shall have all powers
12 granted to a voluntary or involuntary Financial Oversight Panel
13 and to a Financial Administrator under Article 1B of this Code
14 and all other powers necessary to meet its responsibilities and
15 to carry out its purposes and the purposes of this Article,
16 including without limitation all of the following powers,
17 provided that the Panel shall have no power to terminate any
18 employee without following the statutory procedures for such
19 terminations set forth in this Code:

20 (1) To sue and to be sued.

21 (2) To make, cancel, modify, and execute contracts,
22 leases, subleases, and all other instruments or agreements
23 necessary or convenient for the exercise of the powers and
24 functions granted by this Article, subject to Section 1H-45
25 of this Code. The Panel may at a regular or special meeting

1 find that the district has insufficient or inadequate funds
2 with respect to any contract, other than collective
3 bargaining agreements.

4 (3) To purchase real or personal property necessary or
5 convenient for its purposes; to execute and deliver deeds
6 for real property held in its own name; and to sell, lease,
7 or otherwise dispose of such of its property as, in the
8 judgment of the Panel, is no longer necessary for its
9 purposes.

10 (4) To appoint officers, agents, and employees of the
11 Panel, including a chief executive officer, a chief fiscal
12 officer, and a chief educational officer; to define their
13 duties and qualifications; and to fix their compensation
14 and employee benefits.

15 (5) To transfer to the district such sums of money as
16 are not required for other purposes.

17 (6) To borrow money, including without limitation
18 accepting State loans, and to issue obligations pursuant to
19 this Article; to fund, refund, or advance refund the same;
20 to provide for the rights of the holders of its
21 obligations; and to repay any advances.

22 (7) To levy all property tax levies that otherwise
23 could be levied by the district, and to make levies
24 pursuant to Section 1H-65 of this Code. This levy or levies
25 shall be exempt from the Truth in Taxation Law.

26 (8) Subject to the provisions of any contract with or

1 for the benefit of the holders of its obligations, to
2 purchase or redeem its obligations.

3 (9) To procure all necessary goods and services for the
4 Panel in compliance with the purchasing laws and
5 requirements applicable to the district.

6 (10) To do any and all things necessary or convenient
7 to carry out its purposes and exercise the powers given to
8 it by this Article.

9 (11) To recommend annexation, consolidation,
10 dissolution, or reorganization of the district, in whole or
11 in part, to the State Board if in the Panel's judgment the
12 circumstances so require. No such proposal for annexation,
13 consolidation, dissolution, or reorganization shall occur
14 unless the Panel and the school boards of all other
15 districts directly affected by the annexation,
16 consolidation, dissolution, or reorganization have each
17 approved by majority vote the annexation, consolidation,
18 dissolution, or reorganization. Notwithstanding any other
19 law to the contrary, upon approval of the proposal by the
20 State Board, the State Board and all other affected
21 entities shall forthwith implement the proposal. When a
22 dissolution and annexation becomes effective for purposes
23 of administration and attendance, the positions of
24 teachers in contractual continued service in the district
25 being dissolved shall be transferred to the annexing
26 district or districts, pursuant to the provisions of

1 Section 24-12 of this Code. In the event that the territory
2 is added to 2 or more districts, the decision on which
3 positions shall be transferred to which annexing districts
4 shall be made by giving consideration to the proportionate
5 percentage of pupils transferred and the annexing
6 districts' staffing needs, and the transfer of teachers in
7 contractual continued service into positions shall be
8 based upon the request of those teachers in contractual
9 continued service in order of seniority in the dissolving
10 district. The status of all teachers in contractual
11 continued service transferred to an annexing district
12 shall not be lost, and the board of the annexing district
13 is subject to this Code with respect to teachers in
14 contractual continued service who are transferred in the
15 same manner as if the person were the annexing district's
16 employee and had been its employee during the time the
17 person was actually employed by the board of the dissolving
18 district from which the position was transferred.

19 (105 ILCS 5/1H-30 new)

20 Sec. 1H-30. Chief executive officer. The Panel may appoint
21 a chief executive officer who, under the direction of the
22 Panel, shall supervise the Panel's staff, including the chief
23 educational officer and the chief fiscal officer, and shall
24 have ultimate responsibility for implementing the policies,
25 procedures, directives, and decisions of the Panel. The chief

1 executive officer shall have the authority to determine the
2 agenda and order of business at school board meetings, as
3 needed in order to carry forward and implement the objectives
4 and priorities of the school board and Financial Oversight
5 Panel in the administration and management of the district. The
6 chief executive officer is not required to hold any certificate
7 issued under Article 21 of this Code. The chief executive
8 officer shall have the powers and duties as assigned by the
9 Panel in accordance with this Code.

10 (105 ILCS 5/1H-35 new)

11 Sec. 1H-35. Chief educational officer. The Panel may at a
12 regular or special meeting find that cause exists to cancel the
13 contract of the school district's superintendent who is serving
14 at the time the Panel is established. If there is no
15 superintendent, then the Panel may appoint a chief educational
16 officer for the district, who shall have all of the powers and
17 duties of a school district superintendent under this Code and
18 such other duties as may be assigned by the Panel in accordance
19 with this Code. The chief educational officer shall report to
20 the Panel or the chief executive officer appointed by the
21 Panel. The district shall not thereafter employ a
22 superintendent during the period that a chief educational
23 officer is serving in the district. The chief educational
24 officer is not required to hold any certificate issued under
25 Article 21 of this Code.

1 (105 ILCS 5/1H-40 new)

2 Sec. 1H-40. Chief fiscal officer. The Panel may appoint a
3 chief fiscal officer who, under the direction of the Panel or
4 the chief executive officer appointed by the Panel, shall have
5 all of the powers and duties of the district's chief school
6 business official and any other duties regarding budgeting,
7 accounting, and other financial matters that are assigned by
8 the Panel, in accordance with this Code. The district may not
9 employ a chief school business official during the period that
10 the chief fiscal officer is serving in the district. The chief
11 fiscal officer is not required to hold a certificate issued
12 under Article 21 of this Code.

13 (105 ILCS 5/1H-41 new)

14 Sec. 1H-41. Superintendent. The Panel may employ a
15 superintendent who, under the direction of the Panel or the
16 chief executive officer appointed by the Panel, shall have all
17 of the powers and duties of a school district superintendent
18 under this Code assigned by the Panel and such other duties as
19 may be assigned by the Panel in accordance with this Code. The
20 superintendent shall report to the Panel or the chief executive
21 officer appointed by the Panel. The superintendent shall hold a
22 certificate with a superintendent endorsement issued under
23 Article 21 of this Code.

1 (105 ILCS 5/1H-42 new)

2 Sec. 1H-42. Chief school business official. The Panel may
3 employ a chief school business official who, under the
4 direction of the Panel or the chief executive officer appointed
5 by the Panel, shall have all of the powers and duties of a
6 chief school business official under this Code assigned by the
7 Panel and such other duties as may be assigned by the Panel in
8 accordance with this Code. The chief school business official
9 shall report to the Panel or the chief executive officer
10 appointed by the Panel. The chief school business official
11 shall hold a certificate with a chief school business official
12 endorsement issued under Article 21 of this Code.

13 (105 ILCS 5/1H-45 new)

14 Sec. 1H-45. Collective bargaining agreements. The Panel
15 shall have the power to negotiate collective bargaining
16 agreements with the district's employees in lieu of and on
17 behalf of the district. Upon concluding bargaining, the
18 district shall execute the agreements negotiated by the Panel,
19 and the district shall be bound by and shall administer the
20 agreements in all respects as if the agreements had been
21 negotiated by the district itself.

22 (105 ILCS 5/1H-50 new)

23 Sec. 1H-50. Deposits and investments.

24 (a) The Panel shall have the power to establish checking

1 and whatever other banking accounts it may deem appropriate for
2 conducting its affairs.

3 (b) Subject to the provisions of any contract with or for
4 the benefit of the holders of its obligations, the Panel may
5 invest any funds not required for immediate use or
6 disbursement, as provided in the Public Funds Investment Act.

7 (105 ILCS 5/1H-55 new)

8 Sec. 1H-55. Cash accounts and bank accounts.

9 (a) The Panel shall require the district or any officer of
10 the district, including the district's treasurer, to establish
11 and maintain separate cash accounts and separate bank accounts
12 in accordance with such rules, standards, and procedures as the
13 Panel may prescribe.

14 (b) The Panel shall have the power to assume exclusive
15 administration of the cash accounts and bank accounts of the
16 district, to establish and maintain whatever new cash accounts
17 and bank accounts it may deem appropriate, and to withdraw
18 funds from these accounts for the lawful expenditures of the
19 district.

20 (105 ILCS 5/1H-60 new)

21 Sec. 1H-60. Financial, management, and budgetary
22 structure. Upon direction of the Panel, the district shall
23 reorganize the financial accounts, management, and budgetary
24 systems of the district in whatever manner the Panel deems

1 appropriate to achieve greater financial responsibility and to
2 reduce financial inefficiency.

3 (105 ILCS 5/1H-65 new)

4 Sec. 1H-65. School District Emergency Financial Assistance
5 Fund; grants and loans.

6 (a) Moneys in the School District Emergency Financial
7 Assistance Fund established under Section 1B-8 of this Code may
8 be allocated and expended by the State Board for contractual
9 services to provide technical assistance and consultation to
10 school districts to assess their financial condition or to
11 panels that petition for emergency financial assistance grants
12 and by the Illinois Finance Authority as loans to school
13 districts that are the subject of an approved petition for
14 emergency financial assistance under Section 1B-4, 1F-62, or
15 1H-65 of this Code. Neither the State Board of Education nor
16 the Illinois Finance Authority may collect any fees for
17 providing these services. From the amount allocated to each
18 such school district, the State Board shall identify a sum
19 sufficient to cover all approved costs of the panel established
20 for the respective school district. If the State Board and
21 State Superintendent of Education have not approved emergency
22 financial assistance in conjunction with the appointment of a
23 panel, the panel's approved costs shall be paid from deductions
24 from the district's general State aid. An emergency financial
25 assistance loan to a panel or borrowing from sources other than

1 the State shall not be considered as part of the calculation of
2 a district's debt for purposes of the limitation specified in
3 Section 19-1 of this Code.

4 (b) The Panel may prepare and file with the State
5 Superintendent a proposal for emergency financial assistance
6 for the school district and for its operations budget. No
7 expenditures shall be authorized by the State Superintendent
8 until he or she has approved the proposal of the Panel, either
9 as submitted or in such lesser amount determined by the State
10 Superintendent.

11 (c) The amount of an emergency financial assistance loan
12 that may be allocated to a Panel under this Article, including
13 (i) moneys necessary for the operations of the Panel and (ii)
14 borrowing from sources other than the State shall not exceed,
15 in the aggregate, \$4,000 times the number of pupils enrolled in
16 the district during the school year ending June 30 prior to the
17 date of approval of the petition for emergency financial
18 assistance by the State Board. However, this limitation does
19 not apply to borrowing by the district secured by amounts
20 levied by the district prior to establishment of the Panel. An
21 emergency financial assistance grant shall not exceed \$1,000
22 times the number of such pupils. A district may receive both a
23 loan and a grant.

24 (d) The payment of a State emergency financial assistance
25 grant or loan is subject to appropriation by the General
26 Assembly. State emergency financial assistance allocated and

1 paid to a Panel under this Article may be applied to any fund
2 or funds from which the Panel is authorized to make
3 expenditures by law.

4 (e) Any State emergency financial assistance proposed by
5 the Panel and approved by the State Superintendent may be paid
6 in its entirety during the initial year of the Panel's
7 existence or spread in equal or variable amounts over a period
8 of years not to exceed the period of the Panel's existence. The
9 State Superintendent shall not approve any loan to the Panel
10 unless the Panel has been unable to borrow sufficient funds to
11 operate the district.

12 (f) All loan payments made from the School District
13 Emergency Financial Assistance Fund to a Panel shall be
14 required to be repaid not later than the date the Panel ceases
15 to exist, with simple interest over the term of the loan at a
16 rate equal to 50% of the one-year Constant Maturity Treasury
17 (CMT) yield as last published by the Board of Governors of the
18 Federal Reserve System before the date on which the Financial
19 Oversight Panel's loan is approved by the State Superintendent.

20 (g) The Panel shall establish and the Illinois Finance
21 Authority shall approve the terms and conditions of the loan,
22 including the schedule of repayments. The schedule shall
23 provide for repayments commencing July 1 of each year or upon
24 each fiscal year's receipt of moneys from a tax levy for
25 emergency financial assistance. Repayment shall be
26 incorporated into the annual budget of the district and may be

1 made from any fund or funds of the district in which there are
2 moneys available. Default on repayment is subject to the
3 Illinois Grant Funds Recovery Act. When moneys are repaid as
4 provided in this Section, they shall not be made available to
5 the Panel for further use as emergency financial assistance
6 under this Article at any time thereafter. All repayments
7 required to be made by a Panel shall be deposited into the
8 School District Emergency Financial Assistance Fund.

9 (h) In establishing the terms and conditions for the
10 repayment obligation of the Panel, the Panel shall annually
11 determine whether a separate local property tax levy is
12 required to meet that obligation. The Financial Oversight Panel
13 shall provide for a separate tax levy for emergency financial
14 assistance repayment purposes. This tax levy shall not be
15 subject to referendum approval. The amount of the levy shall
16 not exceed the amount necessary to meet the annual emergency
17 financial repayment obligations of the district, including
18 principal and interest, as established by the Panel, and shall
19 not be subject to the provisions of the Property Tax Extension
20 Limitation Law.

21 (105 ILCS 5/1H-70 new)

22 Sec. 1H-70. Power to issue bonds.

23 (a) The Panel may incur indebtedness by the issuance of
24 negotiable full faith and credit general obligation bonds of
25 the Panel in an outstanding amount not to exceed at any time,

1 including existing indebtedness, 15% of the district's most
2 recent equalized assessed valuation, excluding Bonds of the
3 Panel that have been refunded, for (i) the purpose of providing
4 the district with moneys for ordinary and necessary
5 expenditures and other operational needs of the district; (ii)
6 payment or refunding of outstanding debt obligations or tax
7 anticipation warrants of the district, the proceeds of which
8 were used to provide financing for the district; (iii) payment
9 of fees for arrangements as provided in subsection (b) of
10 Section 1H-75 of this Code; (iv) payment of interest on Bonds;
11 (v) establishment of reserves to secure Bonds; (vi) the payment
12 of costs of issuance of Bonds; (vii) payment of principal of or
13 interest or redemption premium on any Bonds or notes of the
14 Panel; and (viii) all other expenditures of the Panel
15 incidental to and necessary or convenient for carrying out its
16 corporate purposes and powers.

17 (b) The Panel may from time to time (i) issue Bonds to
18 refund any outstanding Bonds or notes of the Panel, whether the
19 Bonds or notes to be refunded have or have not matured or
20 become redeemable, and (ii) issue Bonds partly to refund Bonds
21 or notes then outstanding and partly for any other purpose set
22 forth in this Section.

23 (c) Bonds issued in accordance with subsection (a) of this
24 Section are not subject to any other statutory limitation as to
25 debt, including without limitation that established by the
26 Local Government Debt Limitation Act, and may be issued without

1 referendum.

2 (105 ILCS 5/1H-75 new)

3 Sec. 1H-75. Terms of bonds.

4 (a) Whenever the Panel desires or is required to issue
5 Bonds as provided in this Article, it shall adopt a resolution
6 designating the amount of the Bonds to be issued, the purposes
7 for which the proceeds of the Bonds are to be used, and the
8 manner in which the proceeds shall be held pending the
9 application thereof. The Bonds shall be issued in the corporate
10 name of the Panel and shall bear such date or dates and shall
11 mature at such time or times, not exceeding 20 years from their
12 date, as the resolution may provide. The Bonds may be issued as
13 serial bonds payable in installments, as term bonds with
14 sinking fund installments, or as a combination of these as the
15 Panel may determine in the resolution. The Bonds shall be in
16 such denominations as the Panel may determine. The Bonds shall
17 be in such form, carry such registration privileges, be
18 executed in such manner, be payable at such place or places,
19 and be subject to such terms of redemption at such redemption
20 prices, including premium, as the resolution may provide. The
21 Bonds shall be sold by the Panel at public or private sale, as
22 determined by the Panel.

23 (b) In connection with the issuance of its Bonds, the Panel
24 may enter into arrangements to provide additional security and
25 liquidity for the Bonds. These may include without limitation

1 municipal bond insurance, letters of credit, lines of credit by
2 which the Panel may borrow funds to pay or redeem its Bonds,
3 and purchase or remarketing arrangements for ensuring the
4 ability of owners of the Panel's Bonds to sell their Bonds or
5 to have their Bonds redeemed. The Panel may enter into
6 contracts and may agree to pay fees to persons providing the
7 arrangements, including from Bond proceeds, but only under
8 circumstances in which the total interest paid or to be paid on
9 the Bonds, together with the fees for the arrangements (being
10 treated as if interest), would not, taken together, cause the
11 Bonds to bear interest, calculated to their absolute maturity,
12 at a rate in excess of the maximum rate allowed by law.

13 The resolution of the Panel authorizing the issuance of its
14 Bonds may provide that interest rates may vary from time to
15 time depending upon criteria established by the Panel, which
16 may include without limitation a variation in interest rates as
17 may be necessary to cause the Bonds to be remarketable from
18 time to time at a price equal to their principal amount, and
19 may provide for appointment of a national banking association,
20 bank, trust company, investment banker, or other financial
21 institution to serve as a remarketing agent in that connection.
22 The resolution of the Panel authorizing the issuance of its
23 Bonds may provide that alternative interest rates or provisions
24 shall apply during such times as the Bonds are held by a person
25 providing a letter of credit or other credit enhancement
26 arrangement for those Bonds.

1 (105 ILCS 5/1H-80 new)

2 Sec. 1H-80. Tax levy.

3 (a) Before or at the time of issuing any Bonds, the Panel
4 shall provide by resolution for the levy and collection of a
5 direct annual tax upon all the taxable property located within
6 the district, without limit as to rate or amount, sufficient to
7 pay and discharge the principal thereof at maturity or on
8 sinking fund installment dates and to pay the interest thereon
9 as it falls due. The taxes as levied shall also include
10 additional amounts to the extent that the collections in the
11 prior years were insufficient to pay and discharge the
12 principal thereof at maturity, sinking fund installments, if
13 any, and interest thereon as it fell due, and the amount so
14 collected shall be placed in the debt service reserve fund. The
15 tax shall be in addition to and exclusive of the maximum of all
16 taxes that the Panel or the district is authorized by law to
17 levy for any and all school purposes. The resolution shall be
18 in force upon its adoption.

19 (b) The levy shall be for the sole benefit of the holders
20 of the Bonds, and the holders of the Bonds shall have a
21 security interest in and lien upon all rights, claims, and
22 interests of the Panel arising pursuant to the levy and all
23 present and future proceeds of the levy until the principal of
24 and sinking fund installments and interest on the Bonds are
25 paid in full. All proceeds from the levy shall be deposited by

1 each county collector directly into the debt service fund
2 established pursuant to Section 1H-85 of this Code, shall be
3 applied solely for the payment of principal of and sinking fund
4 installments and interest on the Bonds, and shall not be used
5 for any other purpose.

6 (c) Upon the filing in the office of the county clerk of
7 each county where the school district is located of a duly
8 certified copy of the resolution, it shall be the duty of each
9 county clerk to extend the tax provided for in the resolution,
10 including an amount determined by the Panel to cover loss and
11 cost of collection and also deferred collections and abatements
12 in the amount of the taxes as extended on the collectors'
13 books. The tax shall be separate and apart from all other taxes
14 of the Panel or the district and shall be separately identified
15 by the collectors.

16 (105 ILCS 5/1H-85 new)

17 Sec. 1H-85. Debt service fund. The Panel shall establish a
18 debt service fund for the Bonds, to be maintained by a paying
19 agent, escrow agent, depository, or corporate trustee, which
20 may be any trust company or bank having the power of a trust
21 company within this State, separate and segregated from all
22 other funds and accounts of the Panel and the district. All
23 moneys on deposit in the debt service fund shall be held in
24 trust in the debt service fund for the benefit of the holders
25 of the Bonds, shall be applied solely for the payment of the

1 principal of and sinking fund installment, redemption premium,
2 if any, and interest on the Bonds, and shall not be used for
3 any other purpose. The holders of the Bonds shall have a
4 security interest in and lien upon all such moneys.

5 (105 ILCS 5/1H-90 new)

6 Sec. 1H-90. Debt service reserve fund.

7 (a) The Panel may create and establish a debt service
8 reserve fund to be maintained by a paying agent, escrow agent,
9 depository, or corporate trustee, which may be any trust
10 company or bank having the power of a trust company within the
11 State, separate and segregated from all other funds and
12 accounts of the Panel. The Panel may pay the following into the
13 debt service reserve fund:

14 (1) any proceeds from the sale of Bonds to the extent
15 provided in the resolution authorizing the issuance of the
16 Bonds; and

17 (2) any other moneys that may be available to the Panel
18 for the purpose of the fund.

19 (b) The amount to be accumulated in the debt service
20 reserve fund shall be determined by the Panel, but shall not
21 exceed the maximum amount of interest, principal, and sinking
22 fund installments due in any succeeding calendar year.

23 (c) All moneys on deposit in the debt service reserve fund
24 shall be held in trust for the benefit of the holders of the
25 Bonds, shall be applied solely for the payment of principal of

1 and sinking fund installments and interest on the Bonds to the
2 extent not paid from the debt service fund, and shall not be
3 used for any other purpose.

4 (d) Any moneys in the debt service reserve fund in excess
5 of the amount determined by the Panel pursuant to a resolution
6 authorizing the issuance of Bonds may be withdrawn by the Panel
7 and used for any of its lawful purposes.

8 (e) In computing the amount of the debt service reserve
9 fund, investments shall be valued as the Panel provides in the
10 resolution authorizing the issuance of the Bonds.

11 (105 ILCS 5/1H-95 new)

12 Sec. 1H-95. Bond anticipation notes.

13 (a) After the issuance of Bonds has been authorized, the
14 Panel shall have power to issue from time to time, pursuant to
15 a resolution or resolutions of the Panel, negotiable bond
16 anticipation notes of the Panel in anticipation of the issuance
17 of Bonds.

18 (b) Bond anticipation notes shall mature not later than 2
19 years after the date of issuance, may be made redeemable prior
20 to their maturity, and may be sold in such manner, in such
21 denominations, and at such price or prices and shall bear
22 interest at such rate or rates not to exceed the maximum annual
23 rate authorized by law as a resolution authorizing the issuance
24 of the bond anticipation notes may provide.

25 (c) The bond anticipation notes may be made payable as to

1 both principal and interest from the proceeds of the Bonds. The
2 Panel may provide for payment of interest on the bond
3 anticipation notes from direct annual taxes upon all of the
4 taxable property located within the district that are
5 authorized to be levied annually for that purpose, without
6 limit as to rate or amount, sufficient to pay the interest as
7 it falls due, in the manner, subject to the security interest
8 and lien, and with the effect provided in Section 1H-80 of this
9 Code.

10 (d) The Panel is authorized to issue renewal notes in the
11 event it is unable to issue Bonds to pay outstanding bond
12 anticipation notes, on terms the Panel deems reasonable.

13 (e) A debt service fund shall be established in the manner
14 provided in Section 1H-85 of this Code by the Panel for the
15 bond anticipation notes, and the proceeds of any tax levy made
16 pursuant to this Section shall be deposited into the fund upon
17 receipt.

18 (105 ILCS 5/1H-100 new)

19 Sec. 1H-100. Vesting powers in trustee or other authorized
20 agent. The resolution authorizing issuance of the Bonds shall
21 vest in a trustee, paying agent, escrow agent, or depository
22 such rights, powers, and duties in trust as the Panel may
23 determine and may contain such provisions for protecting and
24 enforcing the rights and remedies of the holders of the Bonds
25 and limiting such rights and remedies as may be reasonable and

1 proper and not in violation of law, including covenants setting
2 forth the duties of the Panel in relation to the exercise of
3 its corporate powers and the custody, safeguarding, and
4 application of all moneys. The resolution shall provide for the
5 manner in which moneys in the various funds and accounts of the
6 Panel may be invested and the disposition of the earnings on
7 the investments.

8 (105 ILCS 5/1H-105 new)

9 Sec. 1H-105. Discharge of bonds.

10 (a) If the Panel pays or causes to be paid to the holders
11 of all Bonds then outstanding the principal, redemption price,
12 if any, and interest to become due on the Bonds, at the times
13 and in the manner stipulated therein and in the resolution
14 authorizing the issuance of the Bonds, then the covenants,
15 agreements, and other obligations of the Panel to the
16 Bondholders shall be discharged and satisfied.

17 (b) Bonds or interest installments for the payment or
18 redemption of which moneys have been set aside and held in
19 trust by the trustee or other authorized agent provided for in
20 Section 1H-100 of this Code, through deposit by the Panel of
21 funds for the payment, redemption, or otherwise, at the
22 maturity or redemption date, are deemed to have been paid
23 within the meaning and with the effect expressed in subsection
24 (a) of this Section. All outstanding Bonds of any series, prior
25 to the maturity or redemption date, are deemed to have been

1 paid within the meaning and with the effect expressed in
2 subsection (a) of this Section if (1) there has been deposited
3 with the trustee or other authorized agent either (A) moneys in
4 an amount that is sufficient or (B) direct obligations of the
5 United States of America the principal of and the interest on
6 which, when due, will provide moneys that, together with the
7 moneys, if any, deposited with the trustee or other authorized
8 agent at the same time, are sufficient to pay, when due, the
9 principal, sinking fund installment, or redemption price, if
10 applicable, of and interest due and to become due on the Bonds
11 on and prior to the redemption date, sinking fund installment
12 date, or maturity date, as the case may be, and (2) the Panel
13 has given the trustee or other authorized agent, in form
14 satisfactory to it, irrevocable instructions to give notice to
15 the effect and in accordance with the procedures provided in
16 the resolution authorizing the issuance of the Bonds. Neither
17 direct obligations of the United States of America, moneys
18 deposited with the trustee or other authorized agent, or
19 principal or interest payments on the securities shall be
20 withdrawn or used for any purpose other than, and shall be held
21 in trust for, the payment of the principal or redemption price,
22 if applicable, and interest on the Bonds.

23 (105 ILCS 5/1H-110 new)

24 Sec. 1H-110. Pledge of the State. The State of Illinois
25 pledges to and agrees with the holders of Bonds that the State

1 will not limit or alter the rights and powers vested in the
2 Panel by this Article with respect to the issuance of
3 obligations so as to impair the terms of any contract made by
4 the Panel with these holders or in any way impair the rights
5 and remedies of these holders until the Bonds, together with
6 interest on the Bonds, interest on any unpaid installments of
7 interest, and all costs and expenses in connection with any
8 action or proceedings by or on behalf of these holders, are
9 fully met and discharged or provisions made for their payment.
10 The Panel is authorized to include this pledge and agreement of
11 the State in any resolution or contract with the holders of
12 Bonds.

13 (105 ILCS 5/1H-115 new)

14 Sec. 1H-115. Statutory lien. Any pledge, assignment, lien,
15 or security interest for the benefit of the holders of Bonds or
16 bond anticipation notes, if any, created pursuant to this
17 Article are valid and binding from the time the Bonds are
18 issued, without any physical delivery or further act, and are
19 valid and binding as against and prior to any claims of all
20 other parties having claims of any kind in tort, contract, or
21 otherwise against the State, the Panel, the district, or any
22 other person, irrespective of whether the other parties have
23 notice.

24 (105 ILCS 5/1H-120 new)

1 Sec. 1H-120. State or district not liable on obligations.
2 Obligations shall not be deemed to constitute (i) a debt or
3 liability of the State, the district, or any political
4 subdivision of the State or district other than the Panel or
5 (ii) a pledge of the full faith and credit of the State, the
6 district, or any political subdivision of the State or district
7 other than the Panel but shall be payable solely from the funds
8 and revenues provided for in this Article. The issuance of
9 obligations shall not directly, indirectly, or contingently
10 obligate the State, the district, or any political subdivision
11 of the State or district other than the Panel to levy any form
12 of taxation therefor or to make any appropriation for their
13 payment. Nothing in this Section shall prevent or be construed
14 to prevent the Panel from pledging its full faith and credit to
15 the payment of obligations. Nothing in this Article shall be
16 construed to authorize the Panel to create a debt of the State
17 or the district within the meaning of the Constitution or laws
18 of Illinois, and all obligations issued by the Panel pursuant
19 to the provisions of this Article are payable and shall state
20 that they are payable solely from the funds and revenues
21 pledged for their payment in accordance with the resolution
22 authorizing their issuance or any trust indenture executed as
23 security therefor. The State or the district shall not in any
24 event be liable for the payment of the principal of or interest
25 on any obligations of the Panel or for the performance of any
26 pledge, obligation, or agreement of any kind whatsoever that

1 may be undertaken by the Panel. No breach of any such pledge,
2 obligation, or agreement may impose any liability upon the
3 State or the district or any charge upon their general credit
4 or against their taxing power.

5 (105 ILCS 5/1H-125 new)

6 Sec. 1H-125. Obligations as legal investments. The
7 obligations issued under the provisions of this Article are
8 hereby made securities in which all public officers and bodies
9 of this State, all political subdivisions of this State, all
10 persons carrying on an insurance business, all banks, bankers,
11 trust companies, savings banks, and savings associations
12 (including savings and loan associations, building and loan
13 associations, investment companies, and other persons carrying
14 on a banking business), and all credit unions, pension funds,
15 administrators, and guardians who are or may be authorized to
16 invest in bonds or in other obligations of the State may
17 properly and legally invest funds, including capital, in their
18 control or belonging to them. The obligations are also hereby
19 made securities that may be deposited with and may be received
20 by all public officers and bodies of the State, all political
21 subdivisions of the State, and public corporations for any
22 purpose for which the deposit of bonds or other obligations of
23 the State is authorized.

24 (105 ILCS 5/1H-130 new)

1 Sec. 1H-130. Complete authority. This Article, without
2 reference to any other law, shall be deemed full and complete
3 authority for the issuance of Bonds and bond anticipation notes
4 as provided in this Article.

5 (105 ILCS 5/1H-135 new)

6 Sec. 1H-135. Tax anticipation warrants. A Panel shall have
7 the same power to issue tax anticipation warrants as a school
8 board under Section 17-16 of this Code. Tax anticipation
9 warrants are considered borrowing from sources other than the
10 State and are subject to Section 1H-65 of this Code.

11 (105 ILCS 5/1H-140 new)

12 Sec. 1H-140. Reports.

13 (a) The Panel, upon taking office and annually thereafter,
14 shall prepare and submit to the Governor, General Assembly, and
15 State Superintendent a report that includes the audited
16 financial statement for the preceding fiscal year, an approved
17 financial plan, and a statement of the major steps necessary to
18 accomplish the objectives of the financial plan.

19 (b) Annual reports must be submitted on or before March 1
20 of each year.

21 (c) The requirement for reporting to the General Assembly
22 shall be satisfied by filing copies of the report as provided
23 in Section 3.1 of the General Assembly Organization Act and by
24 filing additional copies with the State Government Report

1 Distribution Center for the General Assembly as required under
2 subdivision (t) of Section 7 of the State Library Act.

3 (105 ILCS 5/1H-145 new)

4 Sec. 1H-145. Audit of Panel. The State Superintendent may
5 require a separate audit of the Panel, otherwise the activities
6 of the Panel must be included in the scope of the audit of the
7 school district. A copy of the audit report covering the Panel
8 must be submitted to the State Superintendent.

9 (105 ILCS 5/1H-150 new)

10 Sec. 1H-150. Assistance by State agencies, units of local
11 government, and school districts. The district shall render
12 such services to and permit the use of its facilities and
13 resources by the Panel at no charge as may be requested by the
14 Panel. Any State agency, unit of local government, or school
15 district may, within its lawful powers and duties, render such
16 services to the Panel as may be requested by the Panel. Upon
17 request of the Panel, any State agency, unit of local
18 government, or school district is authorized and empowered to
19 loan to the Panel such officers and employees as the Panel may
20 deem necessary in carrying out its functions and duties.
21 Officers and employees so transferred shall not lose or forfeit
22 their employment status or rights.

23 (105 ILCS 5/1H-155 new)

1 Sec. 1H-155. Property of Panel exempt from taxation. The
2 property of the Panel is exempt from taxation.

3 (105 ILCS 5/1H-160 new)

4 Sec. 1H-160. Sanctions.

5 (a) No member, officer, employee, or agent of the district
6 may commit the district to any contract or other obligation or
7 incur any liability on behalf of the district for any purpose
8 if the amount of the contract, obligation, or liability is in
9 excess of the amount authorized for that purpose then available
10 under the financial plan and budget then in effect.

11 (b) No member, officer, employee, or agent of the district
12 may commit the district to any contract or other obligation on
13 behalf of the district for the payment of money for any purpose
14 required to be approved by the Panel unless the contract or
15 other obligation has been approved by the Panel.

16 (c) No member, officer, employee, or agent of the district
17 may take any action in violation of any valid order of the
18 Panel, may fail or refuse to take any action required by any
19 such order, may prepare, present, certify, or report any
20 information, including any projections or estimates, for the
21 Panel or any of its agents that is false or misleading, or,
22 upon learning that any such information is false or misleading,
23 may fail promptly to advise the Panel or its agents.

24 (d) In addition to any penalty or liability under any other
25 law, any member, officer, employee, or agent of the district

1 who violates subsection (a), (b), or (c) of this Section is
2 subject to appropriate administrative discipline as may be
3 imposed by the Panel, including, if warranted, suspension from
4 duty without pay, removal from office, or termination of
5 employment.

6 (105 ILCS 5/1H-165 new)

7 Sec. 1H-165. Abolition of Panel. The Panel shall be
8 abolished 10 years after its creation or one year after all its
9 obligations issued under the provisions of this Article have
10 been fully paid and discharged, whichever comes later. However,
11 the State Board, upon recommendation of the Panel and if no
12 obligations are outstanding, may abolish the Panel at any time
13 after the Panel has been in existence for 3 years. Upon the
14 abolition of the Panel, all of its records shall be transferred
15 to the State Board and any property of the Panel shall pass to
16 and be vested in the State Board.

17 (105 ILCS 5/1H-170 new)

18 Sec. 1H-170. Limitations of actions after abolition;
19 indemnification; legal representation.

20 (a) Abolition of the Panel pursuant to Section 1H-165 of
21 this Code shall bar any remedy available against the Panel, its
22 members, employees, or agents for any right or claim existing
23 or any liability incurred prior to the abolition, unless the
24 action or other proceeding is commenced prior to the expiration

1 of 2 years after the date of the abolition.

2 (b) The Panel may indemnify any member, officer, employee,
3 or agent who was or is a party or is threatened to be made a
4 party to any threatened, pending, or completed action, suit, or
5 proceeding, whether civil, criminal, administrative, or
6 investigative, by reason of the fact that he or she was a
7 member, officer, employee, or agent of the Panel, against
8 expenses (including attorney's fees, judgments, fines, and
9 amounts paid in settlement actually and reasonably incurred by
10 him or her in connection with the action, suit, or proceeding)
11 if he or she acted in good faith and in a manner that he or she
12 reasonably believed to be in or not opposed to the best
13 interests of the Panel and, with respect to any criminal action
14 or proceeding, had no reasonable cause to believe his or her
15 conduct was unlawful. The termination of any action, suit, or
16 proceeding by judgment, order, settlement, or conviction or
17 upon a plea of nolo contendere or its equivalent, shall not, of
18 itself, create a presumption that the person did not act in
19 good faith in a manner that he or she reasonably believed to be
20 in or not opposed to the best interests of the Panel and, with
21 respect to any criminal action or proceeding, had reasonable
22 cause to believe that his or her conduct was unlawful.

23 To the extent that a member, officer, employee, or agent of
24 the Panel has been successful, on the merits or otherwise, in
25 the defense of any such action, suit, or proceeding referred to
26 in this subsection (b) or in defense of any claim, issue, or

1 matter therein, he or she shall be indemnified against
2 expenses, including attorney's fees, actually and reasonably
3 incurred by him or her in connection therewith. Any such
4 indemnification shall be made by the Panel only as authorized
5 in the specific case, upon a determination that indemnification
6 of the member, officer, employee, or agent is proper in the
7 circumstances because he or she has met the applicable standard
8 of conduct. The determination shall be made (i) by the Panel by
9 a majority vote of a quorum consisting of members who are not
10 parties to the action, suit, or proceeding or (ii) if such a
11 quorum is not obtainable or, even if obtainable, a quorum of
12 disinterested members so directs, by independent legal counsel
13 in a written opinion.

14 Reasonable expenses incurred in defending an action, suit,
15 or proceeding shall be paid by the Panel in advance of the
16 final disposition of the action, suit, or proceeding, as
17 authorized by the Panel in the specific case, upon receipt of
18 an undertaking by or on behalf of the member, officer,
19 employee, or agent to repay the amount, unless it is ultimately
20 determined that he or she is entitled to be indemnified by the
21 Panel as authorized in this Section.

22 Any member, officer, employee, or agent against whom any
23 action, suit, or proceeding is brought may employ his or her
24 own attorney to appear on his or her behalf.

25 The right to indemnification accorded by this Section shall
26 not limit any other right to indemnification to which the

1 member, officer, employee, or agent may be entitled. Any rights
2 under this Section shall inure to the benefit of the heirs,
3 executors, and administrators of any member, officer,
4 employee, or agent of the Panel.

5 The Panel may purchase and maintain insurance on behalf of
6 any person who is or was a member, officer, employee, or agent
7 of the Panel against any liability asserted against him or her
8 and incurred by him or her in any such capacity or arising out
9 of his or her status as such, whether or not the Panel would
10 have the power to indemnify him or her against liability under
11 the provisions of this Section.

12 The Panel shall be considered a State agency for purposes
13 of receiving representation by the Attorney General. Members,
14 officers, employees, and agents of the Panel shall be entitled
15 to representation and indemnification under the State Employee
16 Indemnification Act.

17 Section 99. Effective date. This Act takes effect July 1,
18 2011.

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7	105 ILCS 5/Art. 1H heading
8	new
9	105 ILCS 5/1H-1 new
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