

1 AMENDMENT TO HOUSE BILL 524

2 AMENDMENT NO. _____. Amend House Bill 524, by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Agriculture Producer Protection Act.

6 Section 5. Definitions. As used in this Act, unless the
7 context otherwise requires:

8 "Capital investment" means a purchase of any of the
9 following:

10 (1) A structure associated with producing a
11 commodity, including, but not limited to, a swine
12 farrowing building, a grain storage facility, or a manure
13 storage lagoon.

14 (2) Machinery or equipment associated with
15 producing a commodity, if the machinery or equipment has
16 a useful life in excess of one year.

17 "Commodity" means livestock, raw milk, or a crop.

18 "Contractor" means a person who enters into a production
19 contract with a producer for the production by the producer
20 of commodities in this State.

21 "Crop" means a plant used for food, animal feed, fiber,
22 oil, pharmaceuticals, nutraceuticals, or seed, including, but

1 not limited to, alfalfa, barley, buckwheat, corn, flax,
2 forage, millet, oats, popcorn, rye, sorghum, sunflowers,
3 tobacco, wheat, and grasses used for forage or silage.

4 "Department" means the Department of Agriculture.

5 "Director" means the Director of Agriculture.

6 "Investment requirement" means any capital investment
7 made by a producer to produce a commodity in accordance with
8 a production contract that the producer has executed if (i)
9 the production contract specifically requires that capital
10 investment or (ii) the producer reasonably concludes that
11 investment is either necessary or important in enabling the
12 producer to efficiently and effectively produce the commodity
13 required under the production contract.

14 "Livestock" means beef cattle, dairy cattle, poultry,
15 sheep, or swine.

16 "Produce" means to do any of the following:

17 (1) Provide feed or services relating to the care
18 and feeding of livestock. If the livestock is dairy
19 cattle, then "produce" includes milking the dairy cattle
20 and storing raw milk.

21 (2) Provide for planting, raising, harvesting, or
22 storing a crop. "Produce" includes preparing the soil for
23 planting and nurturing the crop by application of
24 fertilizers or soil conditioners, including those
25 substances regulated under the Illinois Fertilizer Act of
26 1961 or pesticides as defined in the Illinois Pesticide
27 Act.

28 "Producer" means a person who has entered into a
29 production contract whereby that person produces a commodity
30 for a contractor. "Producer" does not mean a commercial
31 fertilizer applicator or pesticide applicator, a feed
32 supplier, or a veterinarian when acting in that capacity.

33 "Production contract" means (1) an agreement between a
34 producer and a contractor in which (i) the producer agrees to

1 produce and sell to the contractor or the contractor's
2 designee an identified commodity or commodities and (ii) the
3 contractor has or exercises some control or direction over
4 the production process; or (2) an agreement between a
5 producer and a contractor in which the producer agrees to
6 care for and raise a commodity or commodities that are not
7 owned by the producer, using land, equipment, or facilities
8 owned or leased by the producer, in exchange for payment. For
9 purposes of this definition, "control or direction over the
10 production process" includes, but is not limited to, the
11 contractor's designation of special commodity
12 characteristics, such as oil content for corn or special
13 genetics for livestock; the contractor's designation of a
14 seed variety or varieties to be used by the producer under
15 the contract; or the contractor's right, or that of his or
16 her designee, to review, check, sample, or analyze the
17 commodity during the production process.

18 Section 10. Written production contracts. All production
19 contracts must be in writing.

20 Section 15. Summary of material terms and conditions.

21 (a) Summary sheet. A production contract entered into,
22 amended, or renewed after the effective date of this Act must
23 contain as the first page, or as the first page of text if it
24 is preceded by a title page or pages, a summary sheet as
25 provided in this Section. The summary sheet shall have the
26 following heading: "SUMMARY OF MATERIAL TERMS AND
27 CONDITIONS". It shall list the material terms and conditions
28 of the production contract; provide a summary explanation of
29 each material term and condition; include an example or
30 examples for those provisions relating to the calculation of
31 the amounts to be received by the producer for the commodity
32 produced under the production contract; and designate the

1 page or pages where these material terms and conditions are
2 found within the text of the document. This summary shall
3 meet the readability requirements of this Section and shall
4 accurately reflect the text of the production contract.

5 In this Section, "material terms and conditions"
6 includes, but is not limited to:

7 (1) the type of commodity to be produced;

8 (2) the particular quality characteristics or
9 specifications for the commodity to be produced,
10 including, but not limited to, the type of genetics for
11 livestock or percentage of non-GMO content for grain;

12 (3) the quantity or acreage of the commodity to be
13 produced;

14 (4) any special production or handling requirements
15 for the commodity, including, but not limited to, disease
16 protocols for livestock and segregation or identity
17 preservation for grain;

18 (5) the time or times for delivery of the
19 commodity;

20 (6) the delivery locations for the commodity;

21 (7) provisions for the calculation of the price or
22 other compensation to be received by the producer under
23 the production contract;

24 (8) the circumstances under which the amount to be
25 received by the producer might be discounted or
26 increased;

27 (9) the circumstances under which the commodity
28 produced under the production contract might be rejected
29 by the contractor;

30 (10) the duration of the production contact,
31 including any renewal provisions; and

32 (11) any cancellation or termination clauses, and
33 specific causes for cancellation and termination.

34 (b) Readability. A production contract must (i) be in a

1 typeface at least as large as 10-point modern, one-point
2 leaded; (ii) be divided and captioned by its various
3 sections; (iii) be written in clear and coherent language;
4 (iv) use words and grammar that are understandable by a
5 person of average intelligence, education, and experience
6 within the industry; and (v) use clear definitions.

7 (c) Review by Director of Agriculture.

8 (1) Process of review. A contractor may submit a
9 production contract to the Director for review to
10 determine whether it complies with this Section. The
11 Director shall do one of the following:

12 (A) certify that the production contract
13 complies with this Section;

14 (B) decline to certify that the production
15 contract complies with this Section and note
16 objections;

17 (C) decline to review the production contract
18 because the contract's compliance with this Section
19 is subject to pending litigation; or

20 (D) decline to review the production contract
21 because it is not subject to this Section.

22 (2) Factors to consider in determining readability.
23 In determining whether a production contract is readable
24 within the meaning of subsection (b), the Director shall
25 consider the provisions of subsection (b) and the
26 following:

27 (A) the simplicity of the sentence structure;

28 (B) the extent to which commonly used and
29 understood words and terms are employed;

30 (C) the extent to which esoteric legal terms
31 are avoided, although the Director shall permit the
32 use of particular words, phrases, provisions, or
33 forms of agreement specifically required,
34 recommended, or endorsed by a state or federal

1 statute, rule, regulation, or case law;

2 (D) the extent to which references to other
3 sections or provisions are minimized;

4 (E) the extent to which clear and easily
5 understood definitions are used; and

6 (F) any additional factors deemed by the
7 Director to be relevant to the readability or
8 understandability of the production contract.

9 (3) Actions of the Director under this Section are
10 subject to judicial review under the provisions of the
11 Administrative Review Law.

12 (4) Limited effect of certification. A production
13 contract certified under this subsection is deemed to
14 comply with subsections (a) and (b). Certification of a
15 production contract under this subsection does not
16 constitute approval of the production contract's legality
17 or legal effect. If the Director certifies a production
18 contract, then the contractor will have complied with
19 subsections (a) and (b), and the remedies stated in
20 paragraph (6) are not available. If, during the first 90
21 days after the effective date of this Act, the Director
22 receives a production contract and fails to respond
23 within 60 days after receipt, then the contractor will
24 have complied with subsections (a) and (b), and the
25 remedies stated in subsection (6) are not available. If,
26 after the first 90 days after the effective date of this
27 Act, the Director receives a production contract and
28 fails to respond within 30 days after receipt, then the
29 contractor will have complied with subsections (a) and
30 (b), and the remedies stated in paragraph (6) are not
31 available.

32 (5) Review not required. Failure to submit a
33 production contract to the Director for review under this
34 subsection does not show a lack of good faith or raise a

1 presumption that the production contract violates this
2 Section.

3 (6) Reformation by court.

4 (A) Change terms. In addition to the remedies
5 provided in Section 45, a court reviewing a
6 production contract may change the terms of the
7 production contract or limit a provision to avoid an
8 unfair result if the court finds all of the
9 following:

10 (i) a material provision of the
11 production contract violates subsection (a) or
12 (b);

13 (ii) the violation caused the producer to
14 be substantially confused about any of the
15 rights, obligations, or remedies of the
16 production contract; and

17 (iii) the violation has caused or is
18 likely to cause financial detriment to the
19 producer.

20 (B) Avoid unjust enrichment. If the court
21 reforms or limits a provision of a production
22 contract, the court shall also make orders necessary
23 to avoid unjust enrichment. Bringing a claim for
24 relief under this paragraph does not entitle a
25 producer to withhold performance of an otherwise
26 valid contractual obligation. No relief may be
27 granted under this paragraph unless the claim is
28 brought before the obligations of the production
29 contract have been fully performed by all parties to
30 the production contract.

31 (7) Limits on producer actions. A producer may
32 recover actual damages caused by a violation of this
33 Section only if the violation caused the producer to not
34 fully understand the rights, obligations, or remedies of

1 the production contract.

2 (8) Statute of limitations. A claim that a
3 production contract violates this Section must be raised
4 within 4 years after the date on which the party alleging
5 the violation knew or should have known of the existence
6 of the violation.

7 Section 20. Limitation on application of confidentiality
8 provisions. After the effective date of this Act, no
9 confidentiality provision of a production contract shall
10 prohibit, or be construed or interpreted to prohibit, a
11 producer from discussing any and all terms and details of a
12 production contract with the producer's legal advisor,
13 lender, accountant, financial advisor, business advisor,
14 immediate family members, or actual or anticipated production
15 association colleagues. This Section does not require a
16 party to a production contract to divulge information in the
17 production contract to another person.

18 Section 25. Investment requirements.

19 (a) Applicability. This Section applies to all
20 production contracts that have investment requirements. The
21 value of the capital investments shall be deemed to be the
22 total dollar amount spent or committed to by the producer in
23 satisfying the investment requirements.

24 (b) Breach. Except as provided in subsection (c), if a
25 producer materially breaches a production contract, a
26 contractor may not terminate or cancel the production
27 contract until the following have occurred:

28 (1) The contractor has provided a written notice of
29 termination or cancellation to the producer that has been
30 received by the producer at least 15 days before the
31 effective date of the termination or cancellation; the
32 notice must provide a comprehensive listing of the causes

1 for the material breach.

2 (2) The producer has failed to remedy each cause of
3 the breach, as alleged in the listing provided in the
4 notice, within 15 days following receipt of the notice.
5 An effort by a producer to remedy a cause of an alleged
6 breach shall not be construed as an admission of a breach
7 in a civil cause of action.

8 (c) Exceptions. A contractor may terminate or cancel a
9 production contract without regard to the provisions of
10 subsection (b) if the basis for the termination or
11 cancellation is either of the following:

12 (1) A voluntary abandonment of the contractual
13 relationship by the producer. A complete failure of a
14 producer's performance under a production contract shall
15 be deemed to be abandonment.

16 (2) The conviction of a producer of an offense of
17 fraud or theft committed against the contractor.

18 (d) Penalty. If a contractor terminates or cancels a
19 production contract other than as provided in this Section,
20 the contractor shall pay the producer the value of the
21 remaining useful life of the capital investments, taking into
22 account the producer's ability to use the capital investments
23 in the producer's other business enterprises and the
24 opportunity to recoup the cost of the capital investments by
25 selling or leasing them, plus any other damages allowed by
26 law.

27 Section 30. Unfair practices.

28 (a) Definitions. As used in this Section:

29 (1) "Contract input" means a commodity or an
30 organic or synthetic substance or compound that is used
31 to produce a commodity, including but not limited to any
32 of the following:

33 (A) Livestock or plants.

- 1 (B) Agricultural seeds.
- 2 (C) Semen or eggs for breeding livestock.
- 3 (D) Fertilizer, pesticides, or petroleum
- 4 products.

5 (2) "Producer right" means one of the following
6 legal rights and protections:

7 (A) Right to join association. The right of a
8 producer to join or belong to, or to refrain from
9 joining or belonging to, an association of
10 producers.

11 (B) Right to contract. The right of a producer
12 to enter into a membership agreement or marketing
13 contract with an association of producers, a
14 processor, or another producer and the right of the
15 producer to exercise contractual rights under such a
16 membership agreement or marketing contract.

17 (C) Right to be a whistleblower. The right of
18 a producer to lawfully provide statements or
19 information, including to the United States
20 Secretary of Agriculture or to a law enforcement
21 agency, regarding alleged improper actions or
22 violations of law by a contractor or processor. This
23 right does not include the right to make statements
24 or provide information if the statements or
25 information are determined to be libelous or
26 slanderous.

27 (D) Right to disclose contractual terms. The
28 right of a producer to disclose the terms of
29 agricultural contracts under Section 20.

30 (E) Right to exercise other protections. The
31 right of a producer to enforce other protections
32 afforded by this Act or other laws or regulations.

33 (b) Unfair practices. It shall be unlawful for any
34 contractor to knowingly do or permit any employee or agent to

1 do any of the following in connection with production
2 contracts:

3 (1) Retaliation. To take actions to coerce,
4 intimidate, disadvantage, retaliate against, or
5 discriminate against any producer because the producer
6 exercises, or attempts to exercise, any producer right,
7 or to diminish or deny a reward, or impose a penalty,
8 without a reasonable basis for doing so.

9 (2) False information. To provide false information
10 to the producer, which may include false information
11 relating to any of the following:

12 (A) A producer with whom the producer
13 associates or an association of producers or an
14 agricultural organization with which the producer is
15 affiliated, including but not limited to (i) the
16 character of the producer or (ii) the condition of
17 the finances or the management of the association of
18 producers or agricultural organization.

19 (B) Producer rights provided by this Act or
20 other provisions of law.

21 (3) Compensation information. To refuse to provide
22 to a producer in a timely manner the statistical data and
23 other data used to determine compensation paid to the
24 producer under a production contract, including, but not
25 limited to, feed conversion rates, feed analyses, and
26 origination and breeder history.

27 (4) Observation of weighing. To refuse to allow a
28 producer or the producer's designated representative to
29 observe, at the time of weighing, the weights and
30 measures used to determine the producer's compensation
31 under a production contract.

32 (5) Additional capital investments. To require a
33 producer to make new or additional capital investments
34 that are beyond the investment requirements of a

1 production contract.

2 (6) Disclosure of risks and readability. To
3 provide, offer, or execute a production contract in
4 violation of the disclosure of material terms and
5 conditions and readability requirements of Section 15.

6 (7) Confidentiality provisions. To provide, offer,
7 or execute a production contract that includes a
8 confidentiality provision in violation of Section 20.

9 (8) Waivers. To provide, offer, or execute a
10 production contract that includes a waiver of any
11 producer right or any obligation of a contractor or
12 processor established under this Act.

13 (9) Forum. To execute an production contract
14 requiring a cause of action to be brought in a location
15 other than the state in which the commodity subject to
16 the production contract is grown or produced.

17 (10) Limitation on damages. To provide, offer, or
18 execute a production contract that contains language
19 limiting the producer's damages in the event of a breach
20 or other failure to perform the production contract by
21 the contractor.

22 (11) Contract inputs. To provide, offer, or execute
23 a production contract in which the contractor requires
24 the use of certain contract inputs but also attempts to
25 limit its liability for a failure of the contract inputs
26 to perform in accordance with the producer's reasonable
27 expectations.

28 (12) Use of certain undefined terms. To provide,
29 offer, or execute a production contract requiring or
30 suggesting that the producer "segregate", "identity
31 preserve", or "channel" the commodity, or using
32 variations or derivatives of these terms, without
33 providing definitions of these terms and guidelines
34 describing how producers should satisfy these

1 requirements.

2 (13) Alter the quality, quantity, or delivery times
3 of contract inputs provided to the producer.

4 Section 35. Waivers unenforceable. Any provision of a
5 production contract that waives a producer right or an
6 obligation of a contractor established by this Act is void
7 and unenforceable. This Section does not affect other
8 provisions of a production contract or a related document,
9 policy, or agreement that can be given effect without the
10 voided provision.

11 Section 40. Choice of law; forum. Any condition,
12 stipulation, or provision requiring the application of the
13 law of a state other than the State of Illinois, or requiring
14 a cause of action to be brought in a state other than the
15 State of Illinois, is void and unenforceable.

16 Section 45. Penalties and enforcement.

17 (a) Civil penalties. A contractor committing an unfair
18 practice under Section 30 is subject to a civil penalty of up
19 to \$1000 per violation per day.

20 (b) Criminal penalties. A contractor committing an
21 unfair practice under Section 30 is guilty of a Class C
22 misdemeanor.

23 (c) Private cause of action. A producer who suffers
24 damages because of a contractor's violation of this Act may
25 bring a private civil action against the contractor and
26 obtain appropriate legal and equitable relief, including
27 damages.

28 (1) Attorneys fees. In a civil action against the
29 contractor, the court shall award any producer who is the
30 prevailing party reasonable attorney fees and other
31 litigation expenses.

1 (2) Injunctive relief. In order to obtain
2 injunctive relief, the producer is not required to post a
3 bond, prove the absence of an adequate remedy at law, or
4 show the existence of special circumstances, unless the
5 court for good cause otherwise orders. The court may
6 order any form of prohibitory or mandatory relief that is
7 appropriate under principles of equity, including but not
8 limited to issuing a temporary or permanent restraining
9 order.

10 (d) Enforcement by Attorney General. The Attorney
11 General's office is the agency primarily responsible for
12 enforcing this Act. In enforcing the provisions of this Act,
13 the Attorney General may do all of the following:

14 (1) Injunctions. Apply to the circuit court for an
15 injunction to do any of the following:

16 (A) Restrain a contractor from engaging in
17 conduct or practices in violation of this Act.

18 (B) Require a contractor to comply with a
19 provision of this Act.

20 (2) Subpoenas. Apply to the circuit court for the
21 issuance of a subpoena to obtain a production contract or
22 material related to actions undertaken in entering into
23 the production contract or related to the intent with
24 which those actions were taken, for purposes of enforcing
25 this Act.

26 (3) Penalties. Bring an action in the circuit court
27 to enforce penalties provided in subsections (a) and (b).

28 Section 50. Rulemaking. The Director must adopt rules
29 necessary to implement this Act not later than January 1,
30 2002.

31 Section 55. Applicability

32 (a) General Rule. Except as provided in subsection (b),

1 this Act applies to production contracts in force on or after
2 the effective date of this Act, regardless of the date the
3 production contract is executed.

4 (b) Exceptions. Section 15, relating to disclosure of
5 material terms and conditions, Section 25, relating to
6 production contracts involving investment requirements, and
7 Section 40, relating to choice of law and forum, shall apply
8 to production contracts executed or substantively amended
9 after the effective date of this Act.

10 Section 90. The Freedom of Information Act is amended by
11 changing Section 7 as follows:

12 (5 ILCS 140/7) (from Ch. 116, par. 207)

13 Sec. 7. Exemptions.

14 (1) The following shall be exempt from inspection and
15 copying:

16 (a) Information specifically prohibited from
17 disclosure by federal or State law or rules and
18 regulations adopted under federal or State law.

19 (b) Information that, if disclosed, would
20 constitute a clearly unwarranted invasion of personal
21 privacy, unless the disclosure is consented to in writing
22 by the individual subjects of the information. The
23 disclosure of information that bears on the public duties
24 of public employees and officials shall not be considered
25 an invasion of personal privacy. Information exempted
26 under this subsection (b) shall include but is not
27 limited to:

28 (i) files and personal information maintained
29 with respect to clients, patients, residents,
30 students or other individuals receiving social,
31 medical, educational, vocational, financial,
32 supervisory or custodial care or services directly

1 or indirectly from federal agencies or public
2 bodies;

3 (ii) personnel files and personal information
4 maintained with respect to employees, appointees or
5 elected officials of any public body or applicants
6 for those positions;

7 (iii) files and personal information
8 maintained with respect to any applicant, registrant
9 or licensee by any public body cooperating with or
10 engaged in professional or occupational
11 registration, licensure or discipline;

12 (iv) information required of any taxpayer in
13 connection with the assessment or collection of any
14 tax unless disclosure is otherwise required by State
15 statute; and

16 (v) information revealing the identity of
17 persons who file complaints with or provide
18 information to administrative, investigative, law
19 enforcement or penal agencies; provided, however,
20 that identification of witnesses to traffic
21 accidents, traffic accident reports, and rescue
22 reports may be provided by agencies of local
23 government, except in a case for which a criminal
24 investigation is ongoing, without constituting a
25 clearly unwarranted per se invasion of personal
26 privacy under this subsection.

27 (c) Records compiled by any public body for
28 administrative enforcement proceedings and any law
29 enforcement or correctional agency for law enforcement
30 purposes or for internal matters of a public body, but
31 only to the extent that disclosure would:

32 (i) interfere with pending or actually and
33 reasonably contemplated law enforcement proceedings
34 conducted by any law enforcement or correctional

1 agency;

2 (ii) interfere with pending administrative
3 enforcement proceedings conducted by any public
4 body;

5 (iii) deprive a person of a fair trial or an
6 impartial hearing;

7 (iv) unavoidably disclose the identity of a
8 confidential source or confidential information
9 furnished only by the confidential source;

10 (v) disclose unique or specialized
11 investigative techniques other than those generally
12 used and known or disclose internal documents of
13 correctional agencies related to detection,
14 observation or investigation of incidents of crime
15 or misconduct;

16 (vi) constitute an invasion of personal
17 privacy under subsection (b) of this Section;

18 (vii) endanger the life or physical safety of
19 law enforcement personnel or any other person; or

20 (viii) obstruct an ongoing criminal
21 investigation.

22 (d) Criminal history record information maintained
23 by State or local criminal justice agencies, except the
24 following which shall be open for public inspection and
25 copying:

26 (i) chronologically maintained arrest
27 information, such as traditional arrest logs or
28 blotters;

29 (ii) the name of a person in the custody of a
30 law enforcement agency and the charges for which
31 that person is being held;

32 (iii) court records that are public;

33 (iv) records that are otherwise available
34 under State or local law; or

1 (v) records in which the requesting party is
2 the individual identified, except as provided under
3 part (vii) of paragraph (c) of subsection (1) of
4 this Section.

5 "Criminal history record information" means data
6 identifiable to an individual and consisting of
7 descriptions or notations of arrests, detentions,
8 indictments, informations, pre-trial proceedings, trials,
9 or other formal events in the criminal justice system or
10 descriptions or notations of criminal charges (including
11 criminal violations of local municipal ordinances) and
12 the nature of any disposition arising therefrom,
13 including sentencing, court or correctional supervision,
14 rehabilitation and release. The term does not apply to
15 statistical records and reports in which individuals are
16 not identified and from which their identities are not
17 ascertainable, or to information that is for criminal
18 investigative or intelligence purposes.

19 (e) Records that relate to or affect the security
20 of correctional institutions and detention facilities.

21 (f) Preliminary drafts, notes, recommendations,
22 memoranda and other records in which opinions are
23 expressed, or policies or actions are formulated, except
24 that a specific record or relevant portion of a record
25 shall not be exempt when the record is publicly cited and
26 identified by the head of the public body. The exemption
27 provided in this paragraph (f) extends to all those
28 records of officers and agencies of the General Assembly
29 that pertain to the preparation of legislative documents.

30 (g) Trade secrets and commercial or financial
31 information obtained from a person or business where the
32 trade secrets or information are proprietary, privileged
33 or confidential, or where disclosure of the trade secrets
34 or information may cause competitive harm, including all

1 information determined to be confidential under Section
2 4002 of the Technology Advancement and Development Act.
3 Nothing contained in this paragraph (g) shall be
4 construed to prevent a person or business from consenting
5 to disclosure.

6 (h) Proposals and bids for any contract, grant, or
7 agreement, including information which if it were
8 disclosed would frustrate procurement or give an
9 advantage to any person proposing to enter into a
10 contractor agreement with the body, until an award or
11 final selection is made. Information prepared by or for
12 the body in preparation of a bid solicitation shall be
13 exempt until an award or final selection is made.

14 (i) Valuable formulae, designs, drawings and
15 research data obtained or produced by any public body
16 when disclosure could reasonably be expected to produce
17 private gain or public loss.

18 (j) Test questions, scoring keys and other
19 examination data used to administer an academic
20 examination or determined the qualifications of an
21 applicant for a license or employment.

22 (k) Architects' plans and engineers' technical
23 submissions for projects not constructed or developed in
24 whole or in part with public funds and for projects
25 constructed or developed with public funds, to the extent
26 that disclosure would compromise security.

27 (l) Library circulation and order records
28 identifying library users with specific materials.

29 (m) Minutes of meetings of public bodies closed to
30 the public as provided in the Open Meetings Act until the
31 public body makes the minutes available to the public
32 under Section 2.06 of the Open Meetings Act.

33 (n) Communications between a public body and an
34 attorney or auditor representing the public body that

1 would not be subject to discovery in litigation, and
2 materials prepared or compiled by or for a public body in
3 anticipation of a criminal, civil or administrative
4 proceeding upon the request of an attorney advising the
5 public body, and materials prepared or compiled with
6 respect to internal audits of public bodies.

7 (o) Information received by a primary or secondary
8 school, college or university under its procedures for
9 the evaluation of faculty members by their academic
10 peers.

11 (p) Administrative or technical information
12 associated with automated data processing operations,
13 including but not limited to software, operating
14 protocols, computer program abstracts, file layouts,
15 source listings, object modules, load modules, user
16 guides, documentation pertaining to all logical and
17 physical design of computerized systems, employee
18 manuals, and any other information that, if disclosed,
19 would jeopardize the security of the system or its data
20 or the security of materials exempt under this Section.

21 (q) Documents or materials relating to collective
22 negotiating matters between public bodies and their
23 employees or representatives, except that any final
24 contract or agreement shall be subject to inspection and
25 copying.

26 (r) Drafts, notes, recommendations and memoranda
27 pertaining to the financing and marketing transactions of
28 the public body. The records of ownership, registration,
29 transfer, and exchange of municipal debt obligations, and
30 of persons to whom payment with respect to these
31 obligations is made.

32 (s) The records, documents and information relating
33 to real estate purchase negotiations until those
34 negotiations have been completed or otherwise terminated.

1 With regard to a parcel involved in a pending or actually
2 and reasonably contemplated eminent domain proceeding
3 under Article VII of the Code of Civil Procedure,
4 records, documents and information relating to that
5 parcel shall be exempt except as may be allowed under
6 discovery rules adopted by the Illinois Supreme Court.
7 The records, documents and information relating to a real
8 estate sale shall be exempt until a sale is consummated.

9 (t) Any and all proprietary information and records
10 related to the operation of an intergovernmental risk
11 management association or self-insurance pool or jointly
12 self-administered health and accident cooperative or
13 pool.

14 (u) Information concerning a university's
15 adjudication of student or employee grievance or
16 disciplinary cases, to the extent that disclosure would
17 reveal the identity of the student or employee and
18 information concerning any public body's adjudication of
19 student or employee grievances or disciplinary cases,
20 except for the final outcome of the cases.

21 (v) Course materials or research materials used by
22 faculty members.

23 (w) Information related solely to the internal
24 personnel rules and practices of a public body.

25 (x) Information contained in or related to
26 examination, operating, or condition reports prepared by,
27 on behalf of, or for the use of a public body responsible
28 for the regulation or supervision of financial
29 institutions or insurance companies, unless disclosure is
30 otherwise required by State law.

31 (y) Information the disclosure of which is
32 restricted under Section 5-108 of the Public Utilities
33 Act.

34 (z) Manuals or instruction to staff that relate to

1 establishment or collection of liability for any State
2 tax or that relate to investigations by a public body to
3 determine violation of any criminal law.

4 (aa) Applications, related documents, and medical
5 records received by the Experimental Organ
6 Transplantation Procedures Board and any and all
7 documents or other records prepared by the Experimental
8 Organ Transplantation Procedures Board or its staff
9 relating to applications it has received.

10 (bb) Insurance or self insurance (including any
11 intergovernmental risk management association or self
12 insurance pool) claims, loss or risk management
13 information, records, data, advice or communications.

14 (cc) Information and records held by the Department
15 of Public Health and its authorized representatives
16 relating to known or suspected cases of sexually
17 transmissible disease or any information the disclosure
18 of which is restricted under the Illinois Sexually
19 Transmissible Disease Control Act.

20 (dd) Information the disclosure of which is
21 exempted under Section 30 of the Radon Industry Licensing
22 Act.

23 (ee) Firm performance evaluations under Section 55
24 of the Architectural, Engineering, and Land Surveying
25 Qualifications Based Selection Act.

26 (ff) Security portions of system safety program
27 plans, investigation reports, surveys, schedules, lists,
28 data, or information compiled, collected, or prepared by
29 or for the Regional Transportation Authority under
30 Section 2.11 of the Regional Transportation Authority Act
31 or the State of Missouri under the Bi-State Transit
32 Safety Act.

33 (gg) Information the disclosure of which is
34 restricted and exempted under Section 50 of the Illinois

1 Prepaid Tuition Act.

2 (hh) Information the disclosure of which is
3 exempted under Section 80 of the State Gift Ban Act.

4 (ii) Beginning July 1, 1999, information that would
5 disclose or might lead to the disclosure of secret or
6 confidential information, codes, algorithms, programs, or
7 private keys intended to be used to create electronic or
8 digital signatures under the Electronic Commerce Security
9 Act.

10 (jj) Information contained in a local emergency
11 energy plan submitted to a municipality in accordance
12 with a local emergency energy plan ordinance that is
13 adopted under Section 11-21.5-5 of the Illinois Municipal
14 Code.

15 ~~(kk)~~ ~~(jj)~~ Information and data concerning the
16 distribution of surcharge moneys collected and remitted
17 by wireless carriers under the Wireless Emergency
18 Telephone Safety Act.

19 (ll) Production contracts submitted for review to
20 the Director of Agriculture under Section 15 of the
21 Agriculture Producer Protection Act.

22 (2) This Section does not authorize withholding of
23 information or limit the availability of records to the
24 public, except as stated in this Section or otherwise
25 provided in this Act.

26 (Source: P.A. 90-262, eff. 7-30-97; 90-273, eff. 7-30-97;
27 90-546, eff. 12-1-97; 90-655, eff. 7-30-98; 90-737, eff.
28 1-1-99; 90-759, eff. 7-1-99; 91-137, eff. 7-16-99; 91-357,
29 eff. 7-29-99; 91-660, eff. 12-22-99; revised 1-17-00.)

30 Section 99. Effective date. This Section and Section 50
31 take effect upon becoming law. The remainder of this Act
32 takes effect on January 1, 2002."