

1                                    AMENDMENT TO HOUSE BILL 4531

2            AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4531 by replacing  
3 everything after the enacting clause with the following:

4            "Section 5. The Unemployment Insurance Act is amended by  
5 changing Sections 205, 211.1, 220, and 1405 and by adding  
6 Section 205.1 as follows:

7            (820 ILCS 405/205) (from Ch. 48, par. 315)

8            Sec. 205. "Employer" means:

9            A. With respect to the years 1937, 1938, and 1939, any  
10 employing unit which has or had in employment eight or more  
11 individuals on some portion of a day, but not necessarily  
12 simultaneously, and irrespective of whether the same  
13 individuals are or were employed on each such day within each  
14 of twenty or more calendar weeks, whether or not such weeks  
15 are or were consecutive, within either the current or  
16 preceding calendar year;

17            B. 1. With respect to the years 1940 through 1955,  
18 inclusive, any employing unit which has or had in employment  
19 six or more individuals within each of twenty or more  
20 calendar weeks (but not necessarily simultaneously and  
21 irrespective of whether the same individuals are or were  
22 employed in each such week), whether or not such weeks are or

1 were consecutive, within either the current or preceding  
2 calendar year;

3 2. With respect to the years 1956 through 1971,  
4 inclusive, any employing unit which has or had in employment  
5 four or more individuals within each of twenty or more  
6 calendar weeks (but not necessarily simultaneously and  
7 irrespective of whether the same individuals are or were  
8 employed in each such week), whether or not such weeks are or  
9 were consecutive, within either the current or preceding  
10 calendar year;

11 3. With respect to the years 1972 and thereafter, except  
12 as provided in subsection K and in Section 301, any employing  
13 unit which (1) pays or paid, for services in employment,  
14 wages of at least \$1500 within any calendar quarter in either  
15 the current or preceding calendar year; or (2) has or had in  
16 employment at least one individual on some portion of a day,  
17 irrespective of whether the same individual is or was  
18 employed on each such day, within each of twenty or more  
19 calendar weeks, whether or not such weeks are or were  
20 consecutive, within either the current or preceding calendar  
21 year;

22 4. With respect to the years 1972 and thereafter, any  
23 nonprofit organization as defined in Section 211.2, except as  
24 provided in subsection K and in Section 301;

25 5. With respect to the years 1972 and thereafter, the  
26 State of Illinois and each of its instrumentalities; and with  
27 respect to the years 1978 and thereafter, each governmental  
28 entity referred to in clause (B) of Section 211.1, except as  
29 provided in Section 301;

30 6. With respect to the years 1978 and thereafter, any  
31 employing unit for which service in agricultural labor is  
32 performed in employment as defined in Section 211.4, except  
33 as provided in subsection K and in Section 301;

34 7. With respect to the years 1978 and thereafter, any

1 employing unit for which domestic service is performed in  
2 employment as defined in Section 211.5, except as provided in  
3 subsection K and in Section 301;

4 C. Any individual or employing unit which succeeded to  
5 the organization, trade, or business of another employing  
6 unit which at the time of such succession was an employer,  
7 and any individual or employing unit which succeeded to the  
8 organization, trade, or business of any distinct severable  
9 portion of another employing unit, which portion, if treated  
10 as a separate employing unit, would have been, at the time of  
11 the succession, an employer under subsections A or B of this  
12 Section;

13 D. Any individual or employing unit which succeeded to  
14 any of the assets of an employer or to any of the assets of a  
15 distinct severable portion thereof, if such portion, when  
16 treated as a separate employing unit would be an employer  
17 under subsections A or B of this Section, by any means  
18 whatever, otherwise than in the ordinary course of business,  
19 unless and until it is proven in any proceeding where such  
20 issue is involved that all of the following exist:

21 1. The successor unit has not assumed a substantial  
22 amount of the predecessor unit's obligations; and

23 2. The successor unit has not acquired a  
24 substantial amount of the predecessor unit's good will;  
25 and

26 3. The successor unit has not continued or resumed  
27 a substantial part of the business of the predecessor  
28 unit in the same establishment;

29 E. Any individual or employing unit which succeeded to  
30 the organization, trade, or business, or to any of the assets  
31 of a predecessor unit (unless and until it is proven in any  
32 proceeding where such issue is involved that all the  
33 conditions enumerated in subsection D of this Section exist),  
34 if the experience of the successor unit subsequent to such

1 succession plus the experience of the predecessor unit prior  
2 to such succession, both within the same calendar year, would  
3 equal the experience necessary to constitute an employing  
4 unit an employer under subsections A or B of this Section;

5 For the purposes of this subsection, the term  
6 "predecessor unit" shall include any distinct severable  
7 portion of an employing unit.

8 F. With respect to the years 1937 through 1955,  
9 inclusive, any employing unit which together with one or more  
10 other employing units is owned or controlled, directly or  
11 indirectly, by legally enforceable means or otherwise, by the  
12 same interests, or which owns or controls one or more other  
13 employing units directly or indirectly, by legally  
14 enforceable means or otherwise, and which if treated as a  
15 single unit with such other employing units or interests or  
16 both would be an employer under subsections A or B of this  
17 Section;

18 G. Any employing unit which, having become an employer  
19 under subsections A, B, C, D, E, or F of this Section, has  
20 not, under Section 301, ceased to be an employer;

21 H. For the effective period of its election pursuant to  
22 Section 302, any other employing unit which has elected to  
23 become fully subject to this Act;

24 I. Any employing unit which is an employer under Section  
25 245; or

26 J. Any employing unit which, having become an employer  
27 under Section 245, has not, with respect to the year 1960 or  
28 thereafter, ceased to be an employer under Section 301; or-

29 J-1. On and after December 21, 2000, any Indian tribe  
30 for which service in "employment" as defined under this Act  
31 is performed.

32 K. In determining whether or not an employing unit for  
33 which service other than domestic service is also performed  
34 is an employer under paragraphs 3, 4, or 6 of subsection B,

1 the domestic service of an individual and the wages paid  
2 therefor shall not be taken into account. In determining  
3 whether or not an employing unit for which service other than  
4 agricultural labor is also performed is an employer under  
5 paragraphs 4 or 7 of subsection B, the service of an  
6 individual in agricultural labor and the wages paid therefor  
7 shall not be taken into account. An employing unit which is  
8 an employer under paragraph 6 of subsection B is an employer  
9 under paragraph 3 of subsection B.

10 (Source: P.A. 87-1178.)

11 (820 ILCS 405/205.1 new)

12 Sec. 205.1. Indian tribe. "Indian tribe" has the meaning  
13 given to that term by Section 4(e) of the Indian  
14 Self-Determination and Education Assistance Act (25 U.S.C.  
15 450(e)), and includes any subdivision, subsidiary, or  
16 business enterprise wholly owned by such an Indian tribe.

17 (820 ILCS 405/211.1) (from Ch. 48, par. 321.1)

18 Sec. 211.1. Except as provided in Section 220, the term  
19 "employment" shall include (A) service performed after  
20 December 31, 1971, by an individual in the employ of this  
21 State or any of its instrumentalities (and by an individual  
22 in the employ of this State or any of its instrumentalities  
23 and one or more other States or their instrumentalities for a  
24 hospital or institution of higher education located in this  
25 State), provided that such service is excluded from the  
26 definition of "employment" in the Federal Unemployment Tax  
27 Act solely by reason of Section 3306(c)(7) of that Act; and  
28 (B) service performed after December 31, 1977 by an  
29 individual in the employ of this State or any of its  
30 instrumentalities, or any political subdivision or municipal  
31 corporation thereof or any of their instrumentalities, or any  
32 instrumentality of more than one of the foregoing, or any

1 instrumentality of any of the foregoing and one or more other  
 2 States or political subdivisions, provided that such service  
 3 is excluded from the definition of "employment" in the  
 4 Federal Unemployment Tax Act by Section 3306(c)(7) of that  
 5 Act; and (C) service performed after December 20, 2000, by an  
 6 individual in the employ of an Indian tribe.

7 (Source: P.A. 80-2dSS-1.)

8 (820 ILCS 405/220) (from Ch. 48, par. 330)

9 Sec. 220. A. The term "employment" shall not include  
 10 service performed prior to 1972 in the employ of this State,  
 11 or of any political subdivision thereof, or of any wholly  
 12 owned instrumentality of this State or its political  
 13 subdivisions.

14 B. The term "employment" shall not include service,  
 15 performed after 1971 and before 1978, in the employ of this  
 16 State or any of its instrumentalities:

- 17 1. In an elective position;
- 18 2. Of a professional or consulting nature,  
 19 compensated on a per diem or retainer basis;
- 20 3. For a State prison or other State correctional  
 21 institution, by an inmate of the prison or correctional  
 22 institution;
- 23 4. As part of an unemployment work-relief or  
 24 work-training program assisted or financed in whole or in  
 25 part by any Federal agency or an agency of this State, by  
 26 an individual receiving such work-relief or  
 27 work-training;
- 28 5. In a facility conducted for the purpose of  
 29 carrying out a program of rehabilitation for individuals  
 30 whose earning capacity is impaired by age or physical or  
 31 mental deficiency or injury or providing remunerative  
 32 work for individuals who because of their impaired  
 33 physical or mental capacity cannot be readily absorbed in

1 the competitive labor market, by an individual receiving  
2 such rehabilitation or remunerative work;

3 6. Directly for the Illinois State Fair during its  
4 active duration (including the week immediately preceding  
5 and the week immediately following the Fair);

6 7. Directly and solely in connection with an  
7 emergency, in fire-fighting, snow removal, flood control,  
8 control of the effects of wind or flood, and the like, by  
9 an individual hired solely for the period of such  
10 emergency;

11 8. In the Illinois National Guard, directly and  
12 solely in connection with its summer training camps or  
13 during emergencies, by an individual called to duty  
14 solely for such purposes.

15 C. Except as provided in Section 302, the term  
16 "employment" shall not include service performed in the  
17 employ of a political subdivision or a municipal corporation,  
18 or an instrumentality of one or more of the foregoing or of  
19 this State and one or more of the foregoing. This subsection  
20 shall not apply to service performed after December 31, 1977.

21 D. The term "employment" shall not include service  
22 performed after December 31, 1977:

23 1. In the employ of a governmental entity referred  
24 to in clause (B) of Section 211.1 if such service is  
25 performed in the exercise of duties

26 a. As an elected official;

27 b. As a member of a legislative body, or a  
28 member of the judiciary, of this State or a  
29 political subdivision or municipal corporation;

30 c. As a member of the Illinois National Guard  
31 or Air National Guard;

32 d. As a worker serving on a temporary basis in  
33 case of fire, storm, snow, earthquake, flood, or  
34 similar emergency;

1           e. In a position which, under or pursuant to  
 2           the laws of this State, is designated as a major  
 3           nontenured policymaking or advisory position, or as  
 4           a policymaking position the performance of the  
 5           duties of which ordinarily does not require more  
 6           than 8 hours per week.

7           2. As part of an unemployment work-relief or  
 8           work-training program assisted or financed in whole or in  
 9           part by any Federal agency or an agency of this State, or  
 10          a political subdivision or municipal corporation, by an  
 11          individual receiving such work-relief or work-training.

12          3. In a facility conducted for the purpose of  
 13          carrying out a program of rehabilitation for individuals  
 14          whose earning capacity is impaired by age or physical or  
 15          mental deficiency or injury or providing remunerative  
 16          work for individuals who because of their impaired  
 17          physical or mental capacity cannot be readily absorbed in  
 18          the competitive labor market, by an individual receiving  
 19          such rehabilitation or remunerative work.

20          4. By an inmate of a custodial or penal  
 21          institution.

22          E. The term "employment" shall not include service  
 23          performed on or after January 1, 2002 in the employ of a  
 24          governmental entity referred to in clause (B) of Section  
 25          211.1 if the service is performed in the exercise of duties  
 26          as an election official or election worker and the amount of  
 27          remuneration received by the individual during the calendar  
 28          year for service as an election official or election worker  
 29          is less than \$1,000.

30          F. The term "employment" shall not include service  
 31          performed in the employ of an Indian tribe if such service is  
 32          performed in the exercise of duties:

- 33           1. as an elected official;
- 34           2. as a member of a legislative body, or a member



1 of the judiciary, of that Indian tribe;

2 3. as a worker serving on a temporary basis in case  
3 of fire, storm, snow, earthquake, flood, or similar  
4 emergency;

5 4. in a position which, under or pursuant to tribal  
6 law, is designated as a major nontenured policymaking or  
7 advisory position, or as a policymaking position the  
8 performance of the duties of which ordinarily does not  
9 require more than 8 hours per week;

10 5. as part of an unemployment work-relief or  
11 work-training program assisted or financed in whole or in  
12 part by any federal agency or an agency of this State, or  
13 a political subdivision or municipal corporation, or an  
14 Indian tribe, by an individual receiving such work-relief  
15 or work training;

16 6. in a facility conducted for the purpose of  
17 carrying out a program of rehabilitation for individuals  
18 whose earning capacity is impaired by age or physical or  
19 mental deficiency or injury or providing remunerative  
20 work for individuals who because of their impaired  
21 physical or mental capacity cannot be readily absorbed in  
22 the competitive labor market, by an individual receiving  
23 such rehabilitation or remunerative work;

24 7. by an inmate of a custodial or penal  
25 institution.

26 (Source: P.A. 92-441, eff. 1-1-02.)

27 (820 ILCS 405/1405) (from Ch. 48, par. 555)

28 Sec. 1405. Financing Benefits for Employees of Local  
29 Governments. A. 1. For the year 1978 and for each calendar  
30 year thereafter, contributions shall accrue and become  
31 payable, pursuant to Section 1400, by each governmental  
32 entity (other than the State of Illinois and its wholly owned  
33 instrumentalities) referred to in clause (B) of Section

1 211.1, upon the wages paid by such entity with respect to  
2 employment after 1977, unless the entity elects to make  
3 payments in lieu of contributions pursuant to the provisions  
4 of subsection B. Notwithstanding the provisions of Sections  
5 1500 to 1510, inclusive, a governmental entity which has not  
6 made such election shall, for liability for contributions  
7 incurred prior to January 1, 1984, pay contributions equal to  
8 1 percent with respect to wages for insured work paid during  
9 each such calendar year or portion of such year as may be  
10 applicable. As used in this subsection, the word "wages",  
11 defined in Section 234, is subject to all of the provisions  
12 of Section 235.

13 2. An Indian tribe for which service is exempted from  
14 the federal unemployment tax under Section 3306(c)(7) of the  
15 Federal Unemployment Tax Act may elect to make payments in  
16 lieu of contributions in the same manner and subject to the  
17 same conditions as provided in this Section with regard to  
18 governmental entities, except as otherwise provided in  
19 paragraphs 7, 8, and 9 of subsection B.

20 B. Any governmental entity subject to subsection A may  
21 elect to make payments in lieu of contributions, in amounts  
22 equal to the amounts of regular and extended benefits paid to  
23 individuals, for any weeks which begin on or after the  
24 effective date of the election, on the basis of wages for  
25 insured work paid to them by the entity during the effective  
26 period of such election. Notwithstanding the preceding  
27 provisions of this subsection and the provisions of  
28 subsection D of Section 1404, with respect to benefit years  
29 beginning prior to July 1, 1989, any adjustment after  
30 September 30, 1989 to the base period wages paid to the  
31 individual by any employer shall not affect the ratio for  
32 determining payments in lieu of contributions of a  
33 governmental entity which has elected to make payments in  
34 lieu of contributions. Provided, however, that with respect

1 to benefit years beginning on or after July 1, 1989, the  
2 governmental entity shall be required to make payments equal  
3 to 100% of regular benefits, including dependents'  
4 allowances, and 100% of extended benefits, including  
5 dependents' allowances, paid to an individual with respect to  
6 benefit years beginning during the effective period of the  
7 election, but only if the governmental entity: (a) is the  
8 last employer as provided in Section 1502.1 and (b) paid to  
9 the individual receiving benefits, wages for insured work  
10 during his base period. If the governmental entity described  
11 in this paragraph meets the requirements of (a) but not (b),  
12 with respect to benefit years beginning on or after July 1,  
13 1989, it shall be required to make payments in an amount  
14 equal to 50% of regular benefits, including dependents'  
15 allowances, and 50% of extended benefits, including  
16 dependents' allowances, paid to an individual with respect to  
17 benefit years beginning during the effective period of the  
18 election.

19 1. Any such governmental entity which becomes an  
20 employer on January 1, 1978 pursuant to Section 205 may elect  
21 to make payments in lieu of contributions for not less than  
22 one calendar year beginning with January 1, 1978, provided  
23 that it files its written election with the Director not  
24 later than January 31, 1978.

25 2. A governmental entity newly created after January 1,  
26 1978, may elect to make payments in lieu of contributions for  
27 a period of not less than one calendar year beginning as of  
28 the first day with respect to which it would, in the absence  
29 of its election, incur liability for the payment of  
30 contributions, provided that it files its written election  
31 with the Director not later than 30 days immediately  
32 following the end of the calendar quarter in which it has  
33 been created.

34 3. A governmental entity which has incurred liability

1 for the payment of contributions for at least 2 calendar  
2 years, and is not delinquent in such payment and in the  
3 payment of any interest or penalties which may have accrued,  
4 may elect to make payments in lieu of contributions beginning  
5 January 1 of any calendar year, provided that it files its  
6 written election with the Director prior to such January 1,  
7 and provided, further, that such election shall be for a  
8 period of not less than 2 calendar years.

9 4. An election to make payments in lieu of contributions  
10 shall not terminate any liability incurred by a governmental  
11 entity for the payment of contributions, interest or  
12 penalties with respect to any calendar quarter which ends  
13 prior to the effective period of the election.

14 5. The termination by a governmental entity of the  
15 effective period of its election to make payments in lieu of  
16 contributions, and the filing of and subsequent action upon  
17 written notices of termination of election, shall be governed  
18 by the provisions of paragraphs 5 and 6 of Section 1404A,  
19 pertaining to nonprofit organizations.

20 6. With respect to benefit years beginning prior to July  
21 1, 1989, wages paid to an individual during his base period  
22 by a governmental entity which elects to make payments in  
23 lieu of contributions for less than full time work, performed  
24 during the same weeks in the base period during which the  
25 individual had other insured work, shall not be subject to  
26 payments in lieu of contribution (upon such employer's  
27 request pursuant to the regulation of the Director) so long  
28 as the employer continued after the end of the base period,  
29 and continues during the applicable benefit year, to furnish  
30 such less than full time work to the individual on the same  
31 basis and in substantially the same amount as during the base  
32 period. If the individual is paid benefits with respect to a  
33 week (in the applicable benefit year) after the employer has  
34 ceased to furnish the work hereinabove described, the

1 governmental entity shall be liable for payments in lieu of  
2 contributions with respect to the benefits paid to the  
3 individual after the date on which the governmental entity  
4 ceases to furnish the work.

5 7. An Indian tribe may elect to make payments in lieu of  
6 contributions for calendar year 2003, provided that it files  
7 its written election with the Director not later than January  
8 31, 2003, and provided further that it is not delinquent in  
9 the payment of any contributions, interest, or penalties.

10 8. Failure of an Indian tribe to make a payment in lieu  
11 of contributions, or a payment of interest or penalties due  
12 under this Act, within 90 days after the Department serves  
13 notice of the finality of a determination and assessment  
14 shall cause the Indian tribe to lose the option of making  
15 payments in lieu of contributions, effective as of the  
16 calendar year immediately following the date on which the  
17 Department serves the notice. Notice of the loss of the  
18 option to make payments in lieu of contributions may be  
19 protested in the same manner as a determination and  
20 assessment under Section 2200 of this Act.

21 9. An Indian tribe that, pursuant to paragraph 8, loses  
22 the option of making payments in lieu of contributions may  
23 again elect to make payments in lieu of contributions for a  
24 calendar year if: (a) the Indian tribe has incurred liability  
25 for the payment of contributions for at least one calendar  
26 year since losing the option pursuant to paragraph 8, (b) the  
27 Indian tribe is not delinquent in the payment of any  
28 liabilities under the Act, including interest or penalties,  
29 and (c) the Indian tribe files its written election with the  
30 Director not later than January 31 of the year with respect  
31 to which it is making the election.

32 C. As soon as practicable following the close of each  
33 calendar quarter, the Director shall mail to each  
34 governmental entity which has elected to make payments in

1 lieu of contributions a Statement of the amount due from it  
2 for all the regular and extended benefits paid during the  
3 calendar quarter, together with the names of its workers or  
4 former workers and the amounts of benefits paid to each of  
5 them during the calendar quarter with respect to benefit  
6 years beginning prior to July 1, 1989, on the basis of wages  
7 for insured work paid to them by the governmental entity; or,  
8 with respect to benefit years beginning after June 30, 1989,  
9 if such governmental entity was the last employer as provided  
10 in Section 1502.1 with respect to a benefit year beginning  
11 during the effective period of the election. All of the  
12 provisions of subsection B of Section 1404 pertaining to  
13 nonprofit organizations, not inconsistent with the preceding  
14 sentence, shall be applicable to payments in lieu of  
15 contributions by a governmental entity.

16 D. The provisions of subsections C through F, inclusive,  
17 of Section 1404, pertaining to nonprofit organizations, shall  
18 be applicable to each governmental entity which has elected  
19 to make payments in lieu of contributions.

20 E. 1. If an Indian tribe fails to pay any liability  
21 under this Act (including assessments of interest or penalty)  
22 within 90 days after the Department issues a notice of the  
23 finality of a determination and assessment, the Director  
24 shall immediately notify the United States Internal Revenue  
25 Service and the United States Department of Labor.

26 2. Notices of payment and reporting delinquencies to  
27 Indian tribes shall include information that failure to make  
28 full payment within the prescribed time frame:

29 a. will cause the Indian tribe to lose the  
30 exemption provided by Section 3306(c)(7) of the Federal  
31 Unemployment Tax Act with respect to the federal  
32 unemployment tax;

33 b. will cause the Indian tribe to lose the option  
34 to make payments in lieu of contributions.

1 (Source: P.A. 86-3.)

2 Section 99. Effective date. This Act takes effect upon  
3 becoming law."